

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE

## DEPOSITION OF BRIAN CUMMINGS

Taken on June 9, 2022

PREPARED BY:

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ANNE S. WILSON & ASSOCIATES  
615-298-1992

1 A P P E A R A N C E S  
2

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## STIPULATIONS

8           It is agreed that Cristi G. Watson, LCR, may  
9 swear the witness, take the deposition by stenographic  
10 means and afterwards reduce same to typewritten form.

11           All formalities as to notice, caption,  
12 certificate, and signing, et cetera, of the deposition  
13 are waived. All objections, except as to the form of  
14 the questions, are reserved to the hearing of said  
15 matter.

(Unless previously provided, all proper names are spelled phonetically to the best of the court reporter's ability.)

1 BRIAN CUMMINGS,  
2 having been duly sworn, testified as follows:

3 EXAMINATION  
4 BY MR. YOUNG;

5 Q. Mr. Cummings, good afternoon. My name is  
6 Philip Young. I represent Jeanne Burton, who is the  
7 court appointed trustee for Cummings Manookian, PLLC,  
8 in this case. Just for the record, I will note that  
9 Ms. Burton is in the room with me today so everyone  
10 knows. Mr. Cummings, please state your name for the  
11 record.

12 A. Kirk Brian Cummings.

13 Q. Mr. Cummings, I know you have taken  
14 plenty of depositions, but have you ever given a  
15 deposition before?

16 A. I have.

17 Q. In what case?

18           A.     I think there were four different times.  
19     One was a malpractice case where there was a -- from  
20     the other side a claim that there was a discovery rule  
21     issue about a statute of limitations argument. I was  
22     deposed in that. One was a real estate lawsuit where I  
23     was a plaintiff. I was deposed in that. I was deposed  
24     in a litigation matter filed in Texas against my old  
25     firm and probably named individually as well. The

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1 fourth one I can think of was a board matter where I  
2 was one of the -- I don't know if they are called  
3 defendants or respondents, but I was one of those  
4 people.

5 Q. Let me ask you about the litigation  
6 matter in Texas. Was Cummings Manookian a defendant in  
7 that matter?

8 A. I believe so.

9 Q. Tell me about that matter. What was the  
10 nature of that litigation?

11 A. Our firm handled some consumer fraud  
12 cases or claims involving diamonds, overgrading of  
13 diamonds. One of the offenders of that overgrading  
14 claimed that we as a firm -- I don't know if they used  
15 the word extortion or that's the way I remembered it,  
16 the fact we were pursuing fraud claims against them or  
17 putting the word out there that they were committing  
18 fraud, that we were doing something wrong, and they  
19 filed a lawsuit kind of under that umbrella.

20 Q. What was the outcome of that matter?

21 A. It settled. I think the terms are  
22 confidential. I think they have been disclosed since.  
23 That was a matter where the people who sued us ended up  
24 paying us.

25 Q. Have you ever given a deposition via Zoom

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1 before?

2 A. No.

3 Q. So a lot of this is probably going to be  
4 old hat for you, but I will go through it anyway,  
5 especially since we're on Zoom and there are some  
6 idiosyncrasies here I want to make sure we go over.  
7 Obviously, please, answer my questions audibly with a  
8 yes or no, not with a head shake or uh-huh or uh-uh. I  
9 will ask that you answer all questions that I pose even  
10 if another attorney objects unless the attorney  
11 specifically tells you not to answer. If that happens  
12 we will resolve the dispute before we move on. If we  
13 need to take a break at any time, let me know. As long  
14 as we're not in the middle of a question, I will be  
15 happy to accommodate that. Where are you physically  
16 located today?

17 A. In my office in Green Hills.

18 Q. Is anyone else in the room with you?

19 A. No.

20 Q. I know just for the record Mr. Price is  
21 on the Zoom representing you, but he is in a different  
22 location, correct?

23 A. Correct. He is not where I am.

24 Q. How many screens are powered on in the  
25 room you are sitting in?

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1           A.       I have three monitors, all of which have  
2 power if that's what you are asking.

3           Q.       It is. What is pulled up on those three  
4 monitors?

5           A.       You or the video is in the middle. On  
6 the left is you sent some exhibits this morning and one  
7 of them was large enough I didn't want to print it, so  
8 that's pulled up. The other actually is what I was  
9 working on. It has nothing to do with this matter. I  
10 am going to close it, so that is now one of those blue  
11 screens with your icons on it.

12          Q.       Other than the things you just described  
13 that were pulled up on the screen, do you have any  
14 paper in front of you?

15          A.       I do.

16          Q.       What is that?

17          A.       I have the exhibits that you sent that I  
18 did print. I have some things that -- matters of my  
19 own, but within reach it's your exhibits.

20          Q.       Those other things are not related to  
21 this deposition?

22          A.       No, not at all. They are out because  
23 it's my office.

24          Q.       On any of those screens do you have any  
25 communication apps open like texting or instant

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1 messaging?

2 A. No. So you know, my phone is in front of  
3 me and the screen is dark.

4 Q. Mr. Cummings, what is your current  
5 occupation? Are you a practicing lawyer?

6 A. Yes, sir.

7 Q. What states are you currently licensed to  
8 practice law in?

9 A. Tennessee, Hawaii, California, Georgia  
10 and Florida.

11 Q. Where did you attend law school?

12 A. Vanderbilt.

13 Q. What year did you graduate?

14 A. 1998.

15 Q. When you finished at Vanderbilt in '98,  
16 did you go to work for a law firm?

17 A. No.

18 Q. What job did you first have after  
19 graduating Vanderbilt Law School?

20 A. I was a law clerk for a state trial court  
21 judge here in Nashville.

22 Q. How long did you do that?

23 A. It was a little longer than a year  
24 because he needed me to start early.

25 Q. After you finished that clerkship where

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1 did you go?

2 A. I started at the firm -- the name at the  
3 time was Gi deon & Wi seman.

4 Q. How long were you at Gi deon & Wi seman?

5 A. I am going to estimate 12 years. I don't  
6 think it's any shorter than that. I might be wrong  
7 that it's a little longer.

8 Q. After you left Gi deon & Wi seman where did  
9 you go?

10 A. I went to the law firm of Levine, Orr and  
11 Geraci oti .

12 Q. How long were you there?

13 A. About three years.

14 Q. After you left Levine Orr where did you  
15 go?

16 A. I co-founded a firm named Cummings  
17 Manookian.

18 Q. How long were you with Cummings  
19 Manookian?

20 A. I think a little over three-and-a-half  
21 years, less than four years.

22 Q. When you left Cummings Manookian, where  
23 did you go practice?

24 A. I founded my current law firm of Cummings  
25 Law.

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1 Q. Is that Cummings Law, PLC or PLLC?

2 A. It probably is, and I just don't know  
3 offhand which it is.

4 Q. It is incorporated in some form or  
5 fashion?

6 A. Yes, it's registered with the Tennessee  
7 Secretary of State.

8 Q. Where is Cummings Law located?

9 A. 4235 Hillsboro Pike. Mailing suite  
10 number is 300, Nashville, Tennessee 37215.

11 Q. What kind of work does Cummings Law do?

12 A. Plaintiff's medical malpractice and  
13 personal injury.

14 Q. Approximately when did you found Cummings  
15 Law, PLC, or PLLC, whatever it is?

16 A. Around September 1st of 2018.

17 Q. You mentioned earlier that you were a  
18 member of Cummings Manookian, PLC; is that correct?

19 A. I was a member, yes.

20 Q. When was Cummings Manookian, PLC, formed?

21 A. About January 1st of 2015.

22 (Exhibit No. 1 was marked.)

23 BY MR. YOUNG:

24 Q. I am going to ask you to take a look at  
25 what's been previously marked Exhibit 1 just so we can

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1 get this on the record. You will see that this is the  
2 secretary of state's filing information for Cummings  
3 Manookian, PLC. Do you have that in front of you?

4 A. I do.

5 Q. It says the date formed is January 1,  
6 2015; is that right?

7 A. Correct.

8 Q. Who were the original members of Cummings  
9 Manookian?

10 A. Me and Brian Manookian.

11 Q. What percentage did you each own?

12 A. I think it was 50/50 unless for a brief  
13 period of time it was 51/49.

14 Q. Do you know who had the 51 percent?

15 A. No, but it might be in the Amended  
16 Operating Agreement that you made an exhibit.

17 Q. Did the membership of Cummings Manookian  
18 change at any time while you were a member of the firm?

19 A. No, not the membership.

20 Q. Tell me how you knew Brian Manookian  
21 prior to January 1, 2015.

22 A. We had worked together at that first law  
23 firm I mentioned, Gideon & Wiseman, as attorneys for  
24 several years. That was how I knew him.

25 Q. Tell me about the conversations that I led

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1 to you forming Cummings Manookian with Brian Manookian.

2 A. I can tell you generally. Maybe you know  
3 this. I don't remember one specific conversation. We  
4 both like litigation. I think we both like the concept  
5 of shifting from what we were doing, which was almost  
6 all defense work, to plaintiff's work. Some of those  
7 -- I mentioned the diamond consumer claims -- were on  
8 the plaintiff's side. We enjoyed doing that and I  
9 think just realized we had like or similar perspectives  
10 on it and decided to do what we did.

11 Q. When you formed Cummings Manookian in  
12 January 2015, did you form it with the intent of it  
13 being a plaintiff's firm?

14 A. I would say yes. I don't know that we  
15 ever said that out loud. I just think we knew it,  
16 yeah, was to do plaintiff's work.

17 Q. Was there a particular type of work that  
18 you anticipated doing like medical, accident cases,  
19 slip and falls? Was there a particular type of case  
20 that you intended to do?

21 A. I could best answer that by what we did  
22 do. We did medical malpractice. There were a few car  
23 accident cases. I think we still had some consumer  
24 fraud cases then, so that is what we did. There might  
25 have been occasional defense thing. I think I did some

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1 subrogation work for a carrier, but the heart of what  
2 we did is what I put in the first part of that answer.

3 Q. Did Cummings Manookian have an operating  
4 agreement when it first formed?

5 A. I know we had one very early. I don't  
6 know if it was January 1st, 2015, or not. I would have  
7 to look at the document.

8 Q. You think that you had an operating  
9 agreement from early on in the existence of Cummings  
10 Manookian?

11 A. Sure, and it might have been from day  
12 one. I don't want to misstate that when I don't know.  
13 It could have been January 2nd. I didn't want to  
14 misstate that.

15 Q. I am going to ask you to look at the  
16 document that I have premarked as Exhibit 2, which is  
17 entitled Amended and Restated Amended Operating  
18 Agreement of Cummings Manookian, PLLC. Do you have  
19 that document in front of you?

20 A. I do.

21 Q. Have you seen this document before?

22 A. I have.

23 (Exhibit No. 2 was marked.)

24 BY MR. YOUNG:

25 Q. Just for the record flip over to page 17

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1 for me.

2 A. I am there.

3 Q. Can you confirm that's your signature?

4 A. That is my signature.

5 Q. First question is who drafted this  
6 document?

7 A. It was drafted by an attorney who wasn't  
8 us, because he would have drafted the original. We may  
9 have made the amendments, we being me and/or Brian  
10 Manookian, but the heavy core of this was drafted by --  
11 it will come to me.

12 Q. It's fair to say it was somebody Cummings  
13 Manookian hired for the purpose of drafting it?

14 A. Yeah, that part is right. I am trying to  
15 remember the name. It's not coming to mind, but it  
16 will.

17 Q. You said you or Mr. Manookian may have  
18 actually made the amendments; is that right?

19 A. Correct, because I think it was very  
20 limited what the amendment would have been, so I doubt  
21 we farmed that out. I don't think we had to.

22 Q. The title of this document is Amended and  
23 Restated Amended Operating Agreement. That leads me to  
24 believe -- correct me if I am wrong -- that there was a  
25 prior amended operating agreement before this; is that

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1 right?

2 A. I follow your logic. That's the best way  
3 I can answer it.

4 Q. You don't recall?

5 A. I don't recall, but I follow your logic  
6 why it doesn't just say amended operating agreement.

7 Q. That was the question.

8 A. Yeah.

9 Q. Do you recall why Cummings Manookian  
10 needed an amended operating agreement in January 2017?

11 A. I think I do, but I am not positive.

12 Q. What's the reason you think you amended  
13 this operating agreement?

14 A. I think my personal IRA loaned money to  
15 the firm, and there is some IRA or tax or other  
16 regulation where the entity that was the beneficiary of  
17 that loan could not be one in which I was a 50 percent  
18 or more member, something along those lines.

19 Q. So you needed to make an amendment to the  
20 membership interest in order to appropriately account  
21 for that IRA loan?

22 A. That's my memory, that the loan couldn't  
23 occur if I was 50 percent member and, therefore, the  
24 change. I might be wrong, but that's my best thought  
25 on it.

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1 Q. Where did Cummings Manookian physically  
2 operate during your time as a member?

3 A. When it started we had an office over on  
4 Woodmont Boulevard. That's 37215. I think the  
5 building address is 102 or 104. I don't remember the  
6 unit number. It might be on -- I thought it might be  
7 on Exhibit 1. It might be on something but not  
8 something I have in front of me. Then we moved to 45  
9 Music Square West also in Nashville.

10 Q. When did the firm move to 45 Music Square  
11 West?

12 A. I think it was by 2016. I don't know if  
13 it was in 2015 or not.

14 Q. Why did the firm move its offices to 45  
15 Music Square West?

16 A. To have a better office space. That  
17 original Woodmont office was a one-room office in a  
18 larger building. The Music Square West property was  
19 bigger, more rooms. It was a better setup.

20 Q. You eventually withdrew as a member of  
21 Cummings Manookian, correct?

22 A. Correct.

23 Q. When was that?

24 A. It was August or September of 2018.

25 Q. Why did you choose to withdraw from

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1 Cumming Manookian?

2 A. To start my own firm.

3 Q. Were there any other factors?

4 A. I don't know how to answer that.

5 Q. Were you aware at the time you withdrew  
6 Mr. Manookian was going to be suspended from the  
7 practice of law?

8 A. I don't remember. I don't know how those  
9 time lines overlap. I don't think that necessarily  
10 would have been the reason even if your timeline  
11 matches your question.

12 Q. I am going to ask you to look back at  
13 Exhibit 2 to this deposition. It's Amended and  
14 Restated Amended Operating Agreement. Specifically I  
15 want you to turn all the way back to Exhibit B of this  
16 document, which starts on page 19. Let me know when  
17 you are there.

18 A. I am there.

19 Q. My questions here I am going to relate to  
20 paragraph 2 of this document.

21 A. Okay.

22 Q. With the other party will be entitled.  
23 You see that paragraph?

24 A. I do.

25 Q. Take a moment to review that paragraph

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1 and explain to me what you believe that paragraph  
2 provides.

3 A. I will reread it and then answer. That  
4 paragraph reads to me as a way to proactively address  
5 how to split up attorney's fees on a matter that was a  
6 Cummings Manookian matter. One of the two of us  
7 withdrew from the firm and after that withdrawal both  
8 of us then continue to work on it.

9 Q. Let me see if I understand the way this  
10 is supposed to work in practice or at least your  
11 understanding. If Cummings Manookian opened a matter  
12 and the lawyers at Cummings Manookian worked on that  
13 matter for 10 months and then you withdrew from  
14 Cummings Manookian and took the matter with you and you  
15 worked on the matter for another 10 months, do I  
16 understand this section to provide that Cummings  
17 Manookian would be entitled to 50 percent of the fee  
18 and you would be entitled to 50 percent of the fee  
19 under that scenario?

20 A. I would have to reread it again about  
21 your math, but I think this is the formula under your  
22 scenario and question how it would get divided.

23 Q. When you withdrew from Cummings Manookian  
24 August or September 2018, did you take some firm  
25 clients with you?

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1 A. Yes.

2 Q. When those matters were ultimately  
3 resolved, did you use the formula in Exhibit 2 to  
4 determine what fees you kept and what fees you paid to  
5 Cummings Manookian?

6 A. Yes.

7 Q. From paragraph 2 we just looked at?

8 A. Yes. I knew what you meant, but, yes.

9 Q. Did you use that formula with each case  
10 that you took with you from Cummings Manookian?

11 A. I did.

12 Q. Going back to the property at 45 Music  
13 Square West, did Cummings Manookian own the real estate  
14 located at that address?

15 A. The land and building, no. I figure  
16 that's what you mean. I didn't hear what you said.  
17 Did you say real estate or real property?

18 Q. I said real estate, but I mean real  
19 property.

20 A. That's my fault. Somebody drove by  
21 louder than you.

22 Q. I am asking whether Cummings Manookian  
23 owned the building and land at 45 Music Square?

24 A. No, they did not.

25 Q. Who owned the building and land at that

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1 address?

2 A. A different entity whose name I know and  
3 can't remember. It's probably on a register of deeds.  
4 If you said it I might -- it was some kind of trust  
5 separate from Cummings Manookian.

6 Q. I will ask you to confirm the way I  
7 understand it. Was that property owned by a general  
8 partnership made up of two trusts?

9 A. The entity that owned the building was  
10 comprised of two trusts. It's your general partnership  
11 thing. I don't know enough to know if that's true or  
12 not. It's just something law-wise I don't know how  
13 that term fits.

14 Q. Did you and Mr. Manookian control the two  
15 trusts that owned the building?

16 A. I don't know about his, and I believe the  
17 trust that I was a part of of those two I am pretty  
18 sure was my wife and I.

19 Q. But the building was owned by two trusts  
20 that were somehow associated with you and Mr.  
21 Manookian?

22 A. No. The building was owned -- there is  
23 something in the -- it got recorded wrong. It was  
24 either 45 -- it was supposed to be MSW Partnership, and  
25 I think somewhere letters got transposed, so it might

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1 be documented as 45 MWS. That was the entity that  
2 owned it. The trust comprised that entity. I don't  
3 want to answer and make it sound like the trust owned  
4 the building because that's not my understanding.

5 Q. I understand. That was a bad question.  
6 I think you are right. My understanding is the  
7 building was owned by a partnership. The two partners  
8 of the partnership were two trusts. My understanding  
9 -- correct me if I am wrong -- was that one of those  
10 trusts was affiliated with you in some way and one of  
11 those trusts was associated with Mr. Manookian in some  
12 way. Is that fair?

13 A. Yes.

14 Q. Did Cummings Manookian have a lease for  
15 the property at 45 Music Square West?

16 A. Yes.

17 Q. When did it enter into that lease?

18 A. In 2016.

19 Q. Was that a written lease?

20 A. Yes.

21 Q. Do you have a copy of that lease?

22 A. Yes.

23 Q. Do you know if Mr. Manookian kept a copy?

24 A. I would have no way of knowing if he kept  
25 a copy.

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1 Q. Did Cummings Manookian pay rent for the  
2 use of the property at 45 Music Square West?

3 A. Yes.

4 Q. How much did it pay?

5 A. It may have gone up incrementally each  
6 year. I want to say about \$9200 a month.

7 Q. When Cummings Manookian made its lease  
8 payments, did it pay the partnership? Did it pay a  
9 bank? Where were the lease payments actually made?

10 A. It was one of two things. It either paid  
11 45 Music Square West or it paid InsBank that then used  
12 the funds to pay the note. I don't know if that was  
13 one step to get there or two.

14 Q. Is it fair to say the rent was based upon  
15 what the payment due InsBank was?

16 A. I think that's fair to say. I think that  
17 might have been how it was determined. The answer is  
18 yes.

19 Q. When did Cummings Manookian stop paying  
20 the rent for 45 Music Square West?

21 A. I don't know that.

22 Q. Do you know if it paid rent through the  
23 entire time you were partner?

24 A. I do and it did.

25 Q. Do you know if it stopped paying rent

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1 shortly after you withdrew?

2 A. I don't know that.

3 Q. Did Cummings Manookian, PLC, ever own any  
4 real property, any real estate?

5 A. The firm did not own any real estate.

6 Q. Other than 45 Music Square West and the  
7 office that you mentioned on Woodmont, prior to that  
8 did Cummings Manookian ever lease any other real  
9 estate?

10 A. Yes.

11 Q. Where was that?

12 A. For a brief period of time Cummings  
13 Manookian had an office in Honolulu.

14 Q. Did you practice from that office?

15 A. I am smiling. I was there a few days out  
16 of the year. If that means I practiced from there,  
17 then, yes. If it means I didn't practice from there,  
18 then no.

19 Q. Did anybody else use that space other  
20 than you?

21 A. No.

22 Q. Did Cummings Manookian own any personal  
23 property?

24 A. Tell me what you mean by personal  
25 property so I can answer.

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1 Q. Sure. I will give you a few categories  
2 that perhaps it owned. When I say personal property, I  
3 am referring, at least for this question, to things  
4 like desks, computers, copiers, conference room tables,  
5 chairs, things of that nature.

6 A. Furniture, yes. Furniture I know is a  
7 yes. The others I don't know one way or another  
8 despite I get the logic.

9 Q. Tell me what furniture you know of that  
10 Cummings Manookian owned.

11 A. We bought furniture from a few companies  
12 that we used to help furnish the office. That's what I  
13 am thinking of.

14 Q. Was that purchased by Cummings Manookian?

15 A. What I am thinking of, yes. I had some  
16 of my own things. I would suspect Brian Manookian may  
17 have as well, but the firm purchased some of the  
18 furniture under that roof.

19 Q. Do you believe the firm purchased most of  
20 the furniture or just a few items?

21 MR. SPRAGENS: Object to the form of  
22 these questions.

23 THE WITNESS: I don't know about most. I  
24 know it was into the tens of thousands of dollars  
25 because I have seen that documented on tax documents.

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1 (Exhibit No. 3 was marked.)

2 BY MR. YOUNG:

3 Q. So I am going to ask you to go ahead and  
4 look at Exhibit 3, which is a property tax payment  
5 document for the year -- it shows 2020. It's for  
6 personal ty. Do you have that document in front of you?

7 A. I do.

8 Q. Have you ever seen this document before  
9 getting it today?

10 A. Not that I remember. You might know  
11 this. Well, let me leave it at that, that it's 2020.  
12 I was going to say you might know the year is the year  
13 I wasn't there anymore.

14 Q. Do you recall ever seeing a document like  
15 this for the years where you remember?

16 A. I may have, but I don't remember. The  
17 tax document I was thinking about is I think called a  
18 franchise and excise return we had prepared that list  
19 those things, and if they weren't listed there, I  
20 wouldn't remember those.

21 Q. Who prepared the franchise and excise  
22 return for you for Cummings Manookian?

23 A. The one or two I am thinking about is an  
24 accounting company called Mahan, and I think it's  
25 called Mahan and associates.

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1 Q. Is that M-A-H-A-N?

2 A. Yes, sir.

3 Q. Do you have a copy of that F & E return?

4 A. I have a copy of at least one, I think  
5 two at the most, because I know I have seen them  
6 recently.

7 Q. If you look at what's been marked as  
8 Exhibit 3, you will see a total value of personal  
9 property of 73,806. Do you see that number?

10 A. Yeah, I do.

11 Q. Do you know where that number came from?

12 A. Absolutely not. If this year is right,  
13 then, no, I have no way of knowing. I can read the  
14 number you see and just read to me.

15 Q. Does that number seem accurate to you  
16 based on what you knew Cummings Manookian to own?

17 A. I don't know, especially to say it under  
18 oath.

19 Q. That's fair. I understand.

20 A. Okay.

21 Q. Who was responsible for filling the  
22 personal property tax returns for Cummings Manookian  
23 when you were a part of it?

24 A. I think Mahan and Associates. We hired  
25 them and paid them to do it. I think that's the

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1 answer.

2 Q. You talked to the -- you knew Cummings  
3 Manookian owned furniture, correct?

4 A. Correct.

5 Q. And you believe Cummings Manookian spent  
6 tens of thousands of dollars on furniture; is that  
7 accurate?

8 A. Correct, but again that ballpark number  
9 is coming from tax returns. If I hadn't seen that, I  
10 wouldn't even have that estimate.

11 Q. What about computers? Do you know if  
12 Cummings Manookian owned any computers?

13 A. I do not know that.

14 Q. What about servers, computer servers?

15 A. I don't know that either.

16 Q. What about photocopiers?

17 A. If you look you will see I am smiling. I  
18 don't think we had a photocopier, so that's -- I don't  
19 think we possessed one to own it. If we did I don't  
20 know either way.

21 Q. When you were a member of Cummings  
22 Manookian, did it have computers at 45 Music Square  
23 West?

24 A. We did have computers, yes.

25 Q. Do you know who purchased those

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1 computers?

2 A. No. That's why I don't know who owned  
3 them.

4 Q. Do you know who paid to maintain the  
5 computers in case of any maintenance issues?

6 A. Cummings Manookian would have.

7 Q. So you mentioned that you knew that  
8 Cummings Manookian owned some furniture. What happened  
9 to those items of furniture when you left Cummings  
10 Manookian?

11 A. I did not take them, but I do not know  
12 what happened to them.

13 Q. You don't know where that furniture is  
14 today?

15 A. No, sir.

16 Q. When you were a member of Cummings  
17 Manookian, PLLC, did the firm maintain bank accounts?

18 A. It did.

19 Q. How many bank accounts did Cummings  
20 Manookian have when you were a member?

21 A. I think we had two at InsBank, and at one  
22 time we had at least one account at Avenue Bank. That  
23 might be it. I am trying to make sure I don't confuse  
24 my current firm with that firm. That's the list I  
25 have.

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1 Q. Let's talk about the accounts at InsBank  
2 first. What were the purpose of those two accounts at  
3 InsBank?

4 A. The two I am thinking of one would have  
5 been the IOLTA account and one would have been what I  
6 will call the operating account. If each partner had  
7 individual accounts there, which makes sense, maybe  
8 that falls under your earlier question, but I was  
9 thinking more about the firm when I said two.

10 Q. That's fair. I am asking about the firm.  
11 I am not asking individual accounts. I am asking about  
12 Cummings Manookian, PLLC, accounts. What about the one  
13 account at Avenue; what was its purpose?

14 A. I think it would have been an operating  
15 account, which might mean we had an IOLTA account  
16 there, too, but I don't remember that. I more remember  
17 the InsBank aspect.

18 Q. When you left Cummings Manookian, did you  
19 only have accounts at InsBank in August of 2018?

20 A. I think so because that's all that I  
21 remember.

22 MR. SPRAGENS: Did you ask the question  
23 did Cummings Manookian have those accounts, not Mr.  
24 Cummings?

25 MR. YOUNG: Correct, right.

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1 Q. Just to clarify, I am asking whether  
2 Cummings Manookian had only accounts at InsBank when  
3 you left the firm in August of 2018?

4 A. Yes, as far as I remember.

5 Q. Who had signatory authority on the two  
6 InsBank accounts?

7 A. I would think Brian Manookian and I. I  
8 don't know if anybody else did beyond us.

9 Q. Do you know if Afsoon Hagh ever had  
10 signatory authority?

11 A. That's what I was struggling -- I don't  
12 know one way or another.

13 Q. What kind of balances did the firm  
14 typically maintain in its operating account? By that I  
15 mean did it empty it at the end of every month? Did it  
16 carry over a balance? What was the firm's policy on  
17 that?

18 A. It definitely did not have a policy  
19 because it would vary, including being a plaintiff's  
20 firm sometimes some nice size deposits would come in  
21 that would, what I will call, raise the daily average,  
22 but we wouldn't leave the money sitting there. We  
23 would distribute it or transfer it to us or between us.

24 Q. Did Cummings Manookian normally maintain  
25 large balances month over month?

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1           A.       No, not the way I think of the word  
2 large, no.

3           Q.       When you were a member of Cummings  
4 Manookian, did it use any credit cards in its  
5 operations?

6           A.       Yes.

7           Q.       What kind of credit card did it have?

8           A.       I remember the firm had American Express  
9 card. If at one time we had another, I call it,  
10 corporate or firm credit card, I don't remember it  
11 right now.

12          Q.       In whose name was that account held? Was  
13 it Cummings Manookian or one of you individually?

14          A.       I think it was Cummings Manookian, but I  
15 can't picture the card in my mind right now. I bet  
16 each card had our names on it, but I think it was a  
17 firm card or firm account.

18          Q.       Who was given credit cards on that firm  
19 account?

20          A.       I know myself and Brian Manookian. I  
21 don't know that anyone else was.

22          Q.       Did the firm get monthly bills on that  
23 credit card?

24          A.       Yes.

25          Q.       Who paid the monthly bills for the credit

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1 card?

2 A. They came out of the firm account.

3 Q. Who had access to the AmEx statements?

4 A. I know I did. I don't know if anyone  
5 else did.

6 Q. Were you the one responsible for  
7 reviewing the charges?

8 A. I know I did review them, yeah. I don't  
9 think it was in an operating agreement that it was  
10 somebody's responsibility versus others.

11 Q. When you were a member of Cummings  
12 Manookian, what kind of charges were made to the firm  
13 credit card?

14 A. Can you specify what you want me to talk  
15 about?

16 Q. I will ask you a few categories and ask  
17 you whether these are the kinds of things you would  
18 normally charge to a firm credit card. For example,  
19 court costs?

20 A. I think like filing fees, yes, would have  
21 gotten on there.

22 Q. What about payments to court reporters,  
23 for example?

24 A. Yes.

25 Q. What about personal expenses?

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1 A. Yes.

2 Q. How would that be accounted for if you  
3 had personal expenses billed to the corporate card?

4 A. It would just show up on the card as a  
5 transaction that wasn't one of the other categories.

6 Q. Would that be treated as a distribution  
7 to the partner?

8 A. I don't know how to answer that. We  
9 didn't have a policy about it. I don't know. I don't  
10 know how to answer that.

11 Q. Did Cummings Manookian use telephone  
12 numbers in the operation of its business when you were  
13 a member there?

14 A. Yes.

15 Q. Do you remember what telephone numbers  
16 Cummings Manookian used?

17 A. I will look at one of your exhibits to  
18 try to remember.

19 Q. Let me ask you a few questions and see if  
20 this triggers memory. Was (615)266-3333 Cummings  
21 Manookian's primary office telephone number?

22 A. I think so, yes.

23 Q. Was (615) 266-0250 its primary fax  
24 number?

25 A. Correct.

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1 Q. Did Cummings Manookian use other  
2 telephone numbers in the operation of its business?

3 A. When there was that brief time of having  
4 a Hawaii office, the answer is yes, but it was not a  
5 Nashville number. It was an 808 area code number.

6 Q. Did the lawyers at Cummings Manookian  
7 have direct dial numbers?

8 A. I bet we did. I don't remember. It  
9 makes sense because we didn't have a switchboard.

10 Q. Who initially established the Cummings  
11 Manookian telephone numbers? Who set those up?

12 A. Let me go back. I am actually not sure  
13 we had direct numbers. I am still thinking about the  
14 question. I don't remember that. I said I thought we  
15 did. I don't remember. I am sorry, can you repeat the  
16 most recent question?

17 Q. Sure. Who established the Cummings  
18 Manookian telephone numbers? Who set up those  
19 telephone numbers?

20 A. I don't know.

21 Q. Was it someone other than you or you  
22 don't recall?

23 A. I don't know. It might have been me. I  
24 just don't remember.

25 Q. In whose name was the telephone bill

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1 issued every month?

2 A. I don't know.

3 Q. Who paid the monthly telephone bill while  
4 you were at Cummings Manookian?

5 A. I think the firm did, but I don't recall.  
6 I can't picture a document right now, picture a bill  
7 that covers that.

8 Q. When you resigned your membership from  
9 the firm in August or September 2018 did you take any  
10 of Cummings Manookian's telephone numbers with you?

11 A. No.

12 Q. Did you ever use (615)256-3333 or  
13 (615)266-0250 in your new firm?

14 A. No.

15 Q. Do you know who was using those two  
16 telephone numbers as of December 2018?

17 A. No. I just know I wasn't.

18 Q. Do you know if anyone is using those  
19 numbers today?

20 A. No, I do not.

21 Q. When you were a member at Cummings  
22 Manookian, did it have a website?

23 A. We did.

24 Q. What was the domain, the address?

25 A. I think it was cmtriallawyers.com.

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1 Q. When did cmtriallawyers.com first become  
2 operational? Was it at the very beginning of the firm?

3 A. I don't know. I believe it was in the  
4 first year, so that would have been in 2015.

5 Q. Was cmtriallawyers.com still operational  
6 as of your exit from the firm?

7 A. Yes.

8 Q. Do you know when it ceased operating?

9 A. No.

10 Q. Did someone maintain that website for  
11 you, or did you do it in-house?

12 A. I know I did not. We got help from  
13 someone who was not a lawyer, and I think Brian  
14 Manookian may have helped some, but I am not sure  
15 whether he helped on the site or not.

16 Q. When you say someone who was not a  
17 lawyer, was that an employee?

18 A. It was Jim Pepe with Helix SEO. We paid  
19 him monthly. I don't know if he was an employee. He  
20 did work for other companies and other people besides  
21 ours.

22 Q. Was his only job, at least for Cummings  
23 Manookian, to maintain the website, or did he have  
24 other responsibilities as well?

25 A. I don't think the website was Jim Pepe's

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1 only responsibility in our regard, but I can't tell you  
2 what else he did do.

3 Q. Were there annual billings to continue  
4 the use of that domain cmtriallawyers.com?

5 A. My experience is there is an annual  
6 renewal for a domain name, so that's why I am going to  
7 say yes.

8 Q. Do you know who paid that annual renewal?

9 A. Either me personally or the firm.

10 Q. Do you know who owns the right to that  
11 domain --

12 A. I'm sorry, or Mr. Manookian. Mr.  
13 Manookian may have been the one who -- whoever first  
14 purchased it I believe then got hit with the annual  
15 renewal.

16 Q. Do you know who owns the right to that  
17 domain today?

18 A. No.

19 Q. When you were a member at Cummings  
20 Manookian, did its attorneys have e-mail addresses?

21 A. Yes.

22 Q. You had an e-mail address?

23 A. Yes.

24 Q. What was that e-mail address?

25 A. Bcummi ngs@cmtriallawyers.com.

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1 Q. Did Brian Manookian have an e-mail  
2 address?

3 A. He did.

4 Q. What was that address?

5 A. Bmanookian@cmtriallawyers.com.

6 Q. Did Afsoon Hagh have a  
7 cmtriallawyers.com e-mail address?

8 A. I think so. I am not as certain of that  
9 as I am about Mr. Manookian and myself.

10 Q. Who paid to maintain those e-mail  
11 accounts when you were a member of the firm?

12 A. I don't know how to answer that, because  
13 I don't know if that is even an expense.

14 Q. So you are not sure if there was any cost  
15 to maintain it? Is that what you are saying?

16 A. Yeah, that's what I am saying. I just  
17 might not understand your question, but I don't know.  
18 I don't know what that cost would be is my direct way  
19 to put it.

20 Q. Do you know if any of those  
21 cmtriallawyers.com e-mail addresses are active today?

22 A. No, I don't.

23 Q. When you were a member of Cummings  
24 Manookian, did the firm maintain time records for its  
25 contingency cases?

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1 A. No, not routinely or per policy.

2 Q. Do you know if any individual attorneys  
3 working for Cummings Manookian had a policy of keeping  
4 time records on their contingency cases?

5 A. Without making you repeat that question,  
6 I am going to carefully word my answer. Yes, to the  
7 extent it was somebody like an outside attorney we had  
8 help and they were going to get paid at an hourly rate.  
9 That would still be a contingency case, but we would  
10 have had them keep up with their time so they could get  
11 paid for that time, but as far as the in-house Cummings  
12 Manookian attorneys, I don't know of such a practice.

13 Q. Did Cummings Manookian employ any  
14 nonlawyer staff during your time as a member?

15 A. Yes.

16 Q. How many?

17 A. One I am certain of, which is Doug Rice.  
18 If Jim Pepe was an employee, he would be the second.  
19 As I said before, I am not certain he was an employee  
20 despite the fact we paid him regularly.

21 Q. Any others you can think of other than  
22 Doug Rice or Jim Pepe?

23 A. Was your question about nonlawyer people  
24 we employed?

25 Q. Yes.

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1 A. I don't have anybody else to add to that.

2 Q. You explained to me what Jim Pepe did  
3 generally speaking. What was Doug Rice's role at  
4 Cummings Manookian?

5 A. He was a paralegal.

6 Q. Was Doug Rice still working for Cummings  
7 Manookian at the time you resigned your membership?

8 A. Yes.

9 Q. What about Jim Pepe? Was he still  
10 performing services for the firm when you resigned?

11 A. I think so, but I am not as clear on Jim  
12 as I am about Doug Rice.

13 Q. Did Cummings Manookian ever employ any  
14 attorneys other than you and Mr. Manookian during your  
15 time at Cummings Manookian?

16 A. Afsoon Hagh was an attorney at the firm.  
17 It's the term employee. Just like the thing with Pepe,  
18 I don't know if I can put it in that category.

19 Q. Other than Afsoon Hagh, were there any  
20 other lawyers -- other than Afsoon Hagh, you, and Mr.  
21 Manookian, were there any other lawyers who did work  
22 for Cummings Manookian while you were a member there?

23 A. Yeah, and I am not trying to confuse you.  
24 Mr. Hammervold did depending on your question. He was  
25 an outside lawyer, but he did work on some of our

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1 cases.

2 Q. Did you pay Mr. Hammervold on an hourly  
3 basis?

4 A. The firm did. I think on some cases Mr.  
5 Hammervold may have gotten a percentage division just  
6 like we were used to, but I think on other things it  
7 was more project based for Mr. Hammervold.

8 Q. Was it fair to say Mr. Hammervold was not  
9 a Cummings Manookian attorney? He was an outsourced  
10 attorney?

11 A. Correct.

12 Q. Was Afsoon Hagh ever a member of Cummings  
13 Manookian, PLC?

14 A. Not while I was there.

15 Q. Was Afsoon Hagh ever paid by Cummings  
16 Manookian, PLC, in any kind of capacity while you were  
17 there?

18 A. I don't think so unless health insurance  
19 is considered compensation, but I don't think that's  
20 what you meant.

21 Q. Was she on Cummings Manookian's health  
22 insurance plan?

23 A. I don't know that the firm had a plan. I  
24 know the firm was charged for a health insurance plan  
25 that I was not on, which was my choice, and I think

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1 covered Mr. Manookian and Ms. Hagh.

2 Q. I think I understand your prior comment  
3 about not sure whether Afsoon Hagh would be considered  
4 an employee of Cummings Manookian. Let me ask you this  
5 question. What did you consider Ms. Hagh's role at  
6 Cummings Manookian to be while you were a member?

7 A. She was a lawyer who worked on some firm  
8 cases.

9 Q. Did she ever have a title at Cummings  
10 Manookian that you knew of?

11 A. No.

12 Q. Did you ever introduce her to clients  
13 with any particular title?

14 A. Right now I don't remember. I know I do  
15 remember one time I was with her with a client. I  
16 don't think I introduced her. I think they already  
17 knew each other.

18 Q. Did you ever refer to her as senior  
19 counsel or senior attorney to anyone?

20 A. No, not that I remember.

21 Q. Did you ever hear her --

22 A. Let me add to that. I also wouldn't have  
23 called her junior counsel either. I don't think I  
24 would have said any such thing.

25 Q. Did you ever hear Mr. Manookian refer to

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1 her by any title?

2 A. Not that I remember, no. That's not the  
3 way we spoke or at least not the way I remember things.

4 Q. Did you ever hear her refer to herself by  
5 any title?

6 A. No. I am trying to picture e-mails I  
7 received from her how people have signature blocks. I  
8 don't remember if she had anything on hers or not. I  
9 don't remember her saying that to me.

10 Q. Do you know if Afsoon Hagh was carried on  
11 Cummings Manookian's firm malpractice insurance policy?

12 A. She was from a certain point forward,  
13 yes. I don't think she was initially.

14 Q. Do you know when she was added to the  
15 firm's malpractice insurance policy?

16 A. I think it was late 2016. It was 2016 or  
17 2017. That much I know.

18 Q. Was she still on the firm's malpractice  
19 insurance policy when you resigned Cummings Manookian?

20 A. Yes.

21 Q. Did Afsoon Hagh have an office at  
22 Cummings Manookian offices at 45 Music Square West?

23 A. I would say yes to that.

24 Q. Do you know when she last used that  
25 office?

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1 A. No. I have no idea.

2 Q. Do you recall whether she was using that  
3 office when you left the firm in August or September  
4 2018?

5 A. I am going to answer this way. I can  
6 picture the office. I am thinking of the space in that  
7 building she used. I can't tell you when I last saw  
8 her there even when I was there or when I last saw Mr.  
9 Manookian. I just don't have a memory. I can picture  
10 the space I am thinking of, but I can't picture her in  
11 it one time versus another. I am sorry if that sounds  
12 flippant. I just can't.

13 Q. Thank you for that clarification. Do you  
14 know if Ms. Hagh was getting mail at 45 Music Square  
15 West when you left the firm September 2018?

16 A. She was.

17 Q. Do you know if she was using her Cummings  
18 Manookian e-mail at that time?

19 A. I don't know. She used e-mail. I don't  
20 know what the e-mail address was. It could be figured  
21 out. Spontaneously I don't know.

22 Q. Do you know if Ms. Hagh was using the  
23 (615) 256-3333 as her telephone number as of the date  
24 that you left the firm?

25 A. I think you mean 266 for your question.

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1 Q. Yes, sorry.

2 A. I think all of us were at the time I  
3 left. By all of us I mean Manookian, Hagh, Cummings.

4 Q. Do you know when Ms. Hagh ceased using 45  
5 Music Square as her mailing address?

6 A. I don't, no.

7 Q. For clarification, the reason I am asking  
8 this you did work on cases with Ms. Hagh after you  
9 resigned from Cummings Manookian, correct?

10 A. I know I worked on one case with her. If  
11 it's more than that, it's just me not remembering it,  
12 not trying to slight anybody.

13 Q. Do you remember if you needed to mail  
14 something to her like a notice, would you use 45 Music  
15 Square West on that case?

16 A. I would have e-mailed it. I don't think  
17 I would have sent her traditional mail to anywhere.

18 Q. What e-mail address would you have used  
19 to send it to Ms. Hagh?

20 A. I would have just started typing in her  
21 name and the rest would auto populate. I'm sorry, I  
22 know it would have started with her name and then it  
23 would complete itself, so I don't know.

24 Q. Do you know when she ceased using her  
25 Cummings Manookian e-mail address?

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1 A. No, I don't.

2 Q. Do you know when she ceased using the  
3 266-3333 telephone number?

4 A. I do not.

5 Q. When you resigned from Cummings  
6 Manookian, do you know if the firm notified clients of  
7 your departure?

8 A. The clients got notified. I don't know  
9 who did that, if it was individually, the firm  
10 through a human being, or Mr. Manookian, or some  
11 combination of that. Ms. Hagh may have done it, but  
12 they learned of it.

13 Q. When would they have learned of it?

14 A. Soon around the time I started my new  
15 firm at the latest so they would have all that contact  
16 information.

17 Q. Do you recall if they were notified by  
18 telephone or in writing of your departure?

19 A. I don't remember. I can tell you what I  
20 think the practice was just from knowing me. I will  
21 let you tell me if you want to know that.

22 Q. Sure. What was your practice?

23 A. One of us would have sent an e-mail so if  
24 somebody later complained you could prove it went out  
25 or to a more formal extent a letter, but it would not

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1 have just been a phone call. That's not how I -- that  
2 would not have been effective for us of how we do  
3 things.

4 Q. You are now aware that Brian Manookian  
5 was suspended from the practice of law in December  
6 2018, correct?

7 A. I know he has been suspended. Tell me  
8 the date again.

9 Q. December 2018.

10 A. I don't know that your date is right, but  
11 I won't fuss at you.

12 Q. You knew he was suspended sometime  
13 shortly after you resigned your membership?

14 A. Yes.

15 Q. I think you mentioned having at least one  
16 client in common with Ms. Hagh. Was that the Shoemaker  
17 matter?

18 A. It was. It was Brett Keefer.

19 Q. Do you know if Mr. Manookian ever  
20 notified Mr. Keefer of his suspension?

21 A. I didn't see it, but I didn't see  
22 anything he sent out. I don't know. You are asking me  
23 if I know. The way I use words, no, I don't know. Do  
24 I believe he did? Yes, I believe he did.

25 Q. Did you ever see a copy of a letter?

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1           A.       I don't remember one way or another. I  
2 may have. Brian Manookian may have mailed me a copy.  
3 I don't know. I don't remember. It wasn't a concern  
4 of mine because I believed he did it.

5           Q.       Did you ever have any discussions with  
6 Mr. Keefer about Mr. Manookian's suspension?

7           A.       I probably did to help him understand.  
8 Again, it's like why I think we mailed clients about  
9 what was going on. Just knowing me, I would have  
10 wanted him to understand not to panic when he is being  
11 told somebody got suspended.

12          Q.       Do you know whether Mr. Keefer was ever  
13 informed Cummings Manookian could no longer represent  
14 him?

15          A.       I am going to need you to rephrase that.  
16 Before you do I am going to grab a bottle of water five  
17 steps away from me. Remember the question. Repeat the  
18 last one.

19          Q.       Do you know whether Mr. Keefer was ever  
20 informed that Cummings Manookian could no longer  
21 represent him?

22          A.       No, I don't know that.

23          Q.       Do you know whether Mr. Keefer was ever  
24 told that he needed to interview new counsel?

25          A.       No. Politely I don't really understand

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1 the question. Maybe I don't need to. I mean he hired  
2 us.

3 Q. I guess the question is this. Upon Mr.  
4 Manookian's suspension, do you know if Mr. Keefer was  
5 told he needed to get new counsel because Cummings  
6 Manookian couldn't represent him anymore?

7 A. No. Are you going to be upset if I  
8 elaborate?

9 Q. No.

10 A. When Mr. Keefer signed -- maybe I am  
11 wrong. When Mr. Keefer signed an attorney-client  
12 agreement, he knew that it wasn't just one attorney  
13 that was going to be representing him, so that's the  
14 part I am struggling with. Maybe it happened, but I  
15 don't see a hypothetical, and maybe it's an ethical  
16 rule I am unaware of unfortunately, where Mr. Manookian  
17 as one attorney being suspended and other existing  
18 attorney or attorneys being -- that would have  
19 triggered a conversation that he could or should  
20 interview other attorneys. That's why I am not -- one,  
21 I am not aware of it, but I am talking too much. I  
22 wouldn't have expected that either.

23 Q. Is it fair to say, at least in your view,  
24 Mr. Manookian's suspension didn't change the way the  
25 case was being handled?

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1 MR. SPRAGENS: Object to the form.

2 THE WITNESS: Correct. I mean we lost  
3 Mr. Manookian's ability to work on the case during that  
4 time, but we kept moving the case forward.

5 MR. YOUNG: Let's take about a five  
6 minute break at this point. Come back at 2:18.

7 (A break was taken.)

8 BY MR. YOUNG:

9 Q. Mr. Cummings, during the break you  
10 mentioned that you needed to make a correction to a  
11 prior statement?

12 A. Yeah, I need to fix a year I think I told  
13 you. You asked me about Afsoon Hagh being on or added  
14 to the Cummings Manookian malpractice coverage. I  
15 think I told you 2016 or 2017. I looked up an e-mail I  
16 had with that company, and it looks like it was 2017.  
17 So if I had 2016 I was wrong.

18 Q. Thank you for that clarification.  
19 Earlier you were explaining that some lawyers did some  
20 work on Cummings Manookian cases that were paid on an  
21 hourly basis. Do you remember that?

22 A. Yeah.

23 Q. You used Mark Hammervold as an example?

24 A. Correct.

25 Q. Was Ms. Hagh ever paid on an hourly basis

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1 like an outside attorney?

2 MR. SPRAGENS: Object to the form.

3 THE WITNESS: Not by Cummings Manookian  
4 while I was there.

5 BY MR. YOUNG:

6 Q. Did you consider her to be I think you  
7 used the word in-house attorney when referring to the  
8 people who routinely worked on Cummings Manookian  
9 matters? Did you consider Ms. Hagh to be an in-house  
10 attorney with Cummings Manookian?

11 A. Yes, which is why we added her to our  
12 malpractice coverage.

13 Q. I am going to shift a bit and ask  
14 questions about a few specific cases. The first one is  
15 Fitzgerald versus Osborn. Were you ever involved in  
16 that case?

17 A. Not that I remember, no.

18 Q. You have no personal knowledge about that  
19 case?

20 A. Correct. That's easy. I have no  
21 personal knowledge about that case.

22 Q. I think you testified earlier that when  
23 you left Cummings Manookian you did take some cases  
24 with you. Do you recall which cases you took with you  
25 when you left Cummings Manookian?

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1           A.       I was afraid you were going to ask that.  
2 First of all, let me put it this way. I am going to  
3 try to list -- do you have a list of any of these cases  
4 where I can say yes or no?

5           Q.       I don't. I guess I am asking which ones  
6 you recall taking with you.

7           A.       I will change my answer from how you  
8 phrased it. Matters I worked on after I left Cummings  
9 Manookian that were initially signed by the Cummings  
10 Manookian firm are the Shoemaker case, a case called  
11 Marcum. There are others, and this is how I know this,  
12 and you might know this, too, that paragraph you had me  
13 look at with how to break out splitting attorney -- I  
14 used that formula to send Ms. Burton checks on more  
15 than one case after I left. It would have been  
16 something I continued to have a role on that I ended up  
17 doing that accounting, but initially it had been a  
18 Cummings Manookian matter. I just don't have that list  
19 in that part of my brain to tell you.

20           Q.       Let me ask this question. Other than  
21 Shoemaker -- put that one to the side -- other than  
22 Shoemaker, for any case that originated with Cummings  
23 Manookian, that is signing an engagement letter first  
24 with Cummings Manookian, but on which you worked after  
25 you left Cummings Manookian, did you use that formula

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1 to divide fees among yourself and Cummings Manookian?

2 A. Yes.

3 Q. Why did you split the fees?

4 A. I am sorry, the first word didn't come  
5 through.

6 Q. Why did you split the fees? Why didn't  
7 you keep it all to yourself?

8 A. Because it had initially been a Cummings  
9 Manookian matter. That paragraph, paragraph 2 on  
10 Exhibit 2, page 19, I think respectfully you or Ms.  
11 Burton may have reminded me I needed to do that.

12 Q. You believe you were required to do so by  
13 the operating agreement?

14 MR. SPRAGENS: Object to the form.

15 THE WITNESS: I do.

16 (Exhibit No. 4 was marked.)

17 BY MR. YOUNG:

18 Q. I am going to ask you to look at what's  
19 been premarked Exhibit 4. Just to be sure we're all  
20 looking at the same document, it's a document entitled  
21 Attorney-client Agreement on Cummings Manookian  
22 letterhead dated April 19, 2017, addressed to Edward  
23 Goodwin and Brett Keefer. Do you see that?

24 A. Yes. I have it in front of me.

25 Q. Have you ever seen this document before?

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1 A. Yes.

2 Q. Is it, in fact, an attorney-client  
3 agreement with Mr. Goodwin and Mr. Keefer?

4 A. Yes, with them and Cummings Manookian,  
5 yes.

6 Q. Is this related to the case that we've  
7 sometimes referred to as the Shoemaker case?

8 A. Yes.

9 Q. I want you to turn to page 3 of this  
10 document and tell me if that's your signature at the  
11 bottom of this letter.

12 A. It is.

13 Q. Are you the one that initially had  
14 conversations with Mr. Keefer?

15 A. I think so. I think I was the first one  
16 to speak to him, but that's not really the way I  
17 remember things. My mind doesn't categorize things  
18 that way. I think so because this was pretty soon  
19 after the event. It says on page 1 April 14 and this  
20 document is going out April 19. I think I spoke with  
21 him, got this to Mr. Goodwin, because that's his e-mail  
22 address, and there would be a page where they would  
23 have signed it. Mine only has three pages.

24 Q. Do you think they ultimately signed this  
25 document? That could have been cut off.

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1           A.       I think they did and there might have  
2   been a later very similar agreement that only Mr.  
3   Keefer signed when we realize Mr. Goodwin was not the  
4   surviving spouse of the decedent.

5           Q.       Was a complaint ultimately filed against  
6   Vanderbilt on behalf of Mr. Keefer?

7           A.       Yes.

8           Q.       Do you know when that happened?

9           A.       Can I cheat and look at the exhibit you  
10   sent me?

11           Q.       Sure. Go ahead. We will look at that in  
12   a minute.

13           A.       I know it has a stamp filed date on it.  
14   February 11, 2019.

15           Q.       Do you know if any time between April 19,  
16   2017, and February 11, 2019, when the case was filed,  
17   do you know if at any time during that time Cummings  
18   Manookian sent Mr. Keefer a letter informing him it was  
19   withdrawing from his representation?

20           A.       Can you repeat that.

21           Q.       Do you know if Cummings Manookian ever  
22   sent Mr. Keefer a letter before February 11, 2019,  
23   informing him that it was withdrawing from his  
24   representation?

25           A.       No.

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1 Q. In fact, when you filed this complaint  
2 February 2019, did you believe this attorney-client  
3 agreement was still in full force and effect?

4 A. An agreement between Mr. Keefer and  
5 Cummings Manookian was still in full force and effect,  
6 yes. Might not have been the one in front of me,  
7 because I think Mr. Keefer may have signed a  
8 supplemental one that was just him.

9 Q. You think the terms were substantially  
10 similar?

11 A. Yes.

12 Q. Prior to the filing of the complaint,  
13 were there any settlement discussions with Vanderbilt?

14 A. Yes.

15 Q. Was there ever an offer made?

16 A. Yes.

17 Q. Do you recall how much that offer was?

18 A. It was at a mediation. I remember what  
19 Vanderbilt's last comment was, but I will get Mr.  
20 Price's help, my attorney here, on what I am allowed to  
21 say in the deposition so I don't violate a rule about  
22 that.

23 MR. PRICE: I need to hear that question  
24 again. The settlement agreement I understand is  
25 confidential. I don't know that the mediation was. I

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1 am worried that this may be a confidential  
2 communication between Mr. Keefer and his attorneys in  
3 this case, so I am worried about the amounts right now.

4 BY MR. YOUNG:

5 Q. I understand that. Let me explain why I  
6 am asking this. The defendants in this case have  
7 alleged that there was a very low offer made prior to  
8 the filing of the complaint and the defendants allege  
9 that that is somehow significant in determining  
10 division of the fees later. That's the only reason I  
11 am asking. Maybe you can answer this or not answer  
12 this. The offer that was made prior to the filing of  
13 the claim -- would you have considered that a very low  
14 offer?

15 MR. SPRAGENS: Object to the form.

16 THE WITNESS: Yes, and that's why it was  
17 not accepted.

18 BY MR. YOUNG:

19 Q. That's ultimately why a complaint was  
20 filed?

21 A. Right.

22 (Exhibit No. 5 was marked.)

23 BY MR. YOUNG:

24 Q. Let's go ahead and look at a copy of the  
25 Complaint premarked as Exhibit 5. I'll ask have you

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1 ever seen this document?

2 A. Yes.

3 Q. Is this the document that initiated --  
4 this is a complaint that initiated the matter between  
5 Mr. Keefer and Vanderbilt?

6 A. This is the complaint that was filed that  
7 started the lawsuit.

8 Q. This shows it was filed February 11,  
9 2019, like you testified earlier, correct?

10 A. Right. I see that.

11 Q. Again, like I did in the deposition of  
12 Mr. Manookian, I will plead a little ignorance not  
13 being a personal injury lawyer and ask you why it took  
14 from April 19, 2017, until February 11, 2019, to file  
15 this complaint?

16 A. Sure. The bulk of that time between  
17 death and this February 2019 filing date was at least  
18 one if not multiple tolling agreements with Vanderbilt  
19 where they said they wanted a tolling agreement meaning  
20 a freeze on the running of the statute of limitations  
21 and statute of repose to see if it would settle  
22 presuit. They wanted to try that through the presuit  
23 mediation you asked me about or I was thinking of.  
24 That didn't result in settlement and then filed the  
25 lawsuit before the tolling agreement ran out. The

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1 tolling agreement allowed more time than normal, which  
2 might be the best way to answer your question.

3 Q. That does at least partially answer the  
4 question. What did Cummings Manookian do to ready this  
5 file for a complaint between April 19, 2017, and  
6 February 11, 2019?

7 MR. SPRAGENS: Object to the form.

8 THE WITNESS: I can tell you what I did.  
9 Is that okay?

10 BY MR. YOUNG:

11 Q. Sure. Explain what you did.

12 A. Met with the client, obtained and  
13 reviewed medical records, reviewed information online  
14 about the medical issues, whether it's, quote, unquote,  
15 medical literature or things you could read to better  
16 understand the issues, conferred with a pre-suit  
17 expert, went to that pre-suit mediation you asked  
18 about, prepared this document, the complaint. Those  
19 are the things that come to mind as to what was done  
20 between first contact to filing of the complaint.

21 Q. Do you know if any other attorney at  
22 Cummings Manookian worked on this matter before the  
23 filing of the complaint?

24 MR. SPRAGENS: Object to the form.

25 THE WITNESS: I am hesitating, because

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1 this came up earlier. I don't remember the suspension  
2 dates. I don't know. I know what I did. I don't know  
3 what other people -- I don't know of anybody else doing  
4 anything through the point you asked me.

5 BY MR. YOUNG:

6 Q. You don't recall anyone else doing  
7 anything prior to the filing of this complaint? Is  
8 that fair?

9 A. I don't remember it, but I would have  
10 spoken -- if he was not suspended at the time, spoken  
11 with Mr. Manookian about this. We would have been  
12 looking at things in the record together, talked about  
13 things, talked about whether to include Dr. Gretchen  
14 Edwards, but I don't remember those things, and I can't  
15 think of a work product to prove it.

16 Q. Do you recall having any conversations  
17 with Afsoon Hagh before this complaint was filed?

18 A. Not about this matter, no.

19 Q. I think you mentioned earlier that you  
20 drafted this complaint?

21 A. Yes.

22 Q. If we look at page 69 of Exhibit 5, is  
23 that your signature on this complaint?

24 A. Yes, it is.

25 Q. Do you know whether you circulated this

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1 complaint to Brian Manookian for his review before it  
2 was filed?

3 A. I don't know.

4 Q. Do you know if you circulated this  
5 complaint to Afsoon Hagh for her review before it was  
6 filed?

7 A. I do not know that either. Are you on  
8 page 69 of this exhibit?

9 Q. Sure.

10 A. You were asking about Ms. Hagh's e-mail  
11 address and I told you I didn't remember. There is one  
12 e-mail address.

13 Q. That's Afsoon@cummingsmanookian.com?

14 A. Right. I am reading it from the page. I  
15 obviously didn't remember that.

16 Q. Would you have sent a copy of this  
17 complaint to her for her review before filing?

18 MR. SPRAGENS: Object to the form.

19 THE WITNESS: I don't know that I did.

20 BY MR. YOUNG:

21 Q. While we're on page 69, you see that Ms.  
22 Hagh's signature block says Cummings Manookian, PLC,  
23 correct?

24 A. I see that.

25 Q. It has a telephone number of 266-3333?

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1 A. Right.

2 Q. And a fax number of 266-0250?

3 A. Correct.

4 Q. Like you pointed out before, it shows her  
5 e-mail address is Afsoon@cummingsmanookian.com?

6 A. Yeah. I have to tell you I might have  
7 been wrong when I told you what Mr. Manookian's and my  
8 e-mail addresses were. Cmtriallawyers.com might have  
9 been the domain name, but our e-mail addresses were the  
10 firm name. Kind of matching my clear indication to you  
11 I was not real clear on my memory about that.

12 Q. That's fair. It's been a few years. I  
13 understand. Looking at the signature block on page 69,  
14 why did you include her Cummings Manookian, PLC, firm  
15 name and e-mail address and these telephone numbers in  
16 the signature block?

17 A. Because she was co-counsel when we were  
18 filing it.

19 Q. Did you understand this to be her contact  
20 information as of February 2019?

21 A. I certainly wouldn't misrepresent that in  
22 a filing, so I guess the answer is yes. I can't tell  
23 you I remember one way or the other.

24 Q. This is what you believed at least as of  
25 February 2019?

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1 A. Right.

2 Q. Did Ms. Hagh ask you to change this?

3 A. No.

4 Q. Did she ever tell you not to use Cummings  
5 Manookian signature block?

6 A. Not that I remember. Not about this.

7 Q. Do you remember at any time her telling  
8 you not to use her Cummings Manookian signature?

9 A. I don't remember that, but it may have  
10 occurred at some point later when there was a change of  
11 address or change of firm. I just -- I don't remember  
12 that occurring either.

13 Q. You explained to me earlier the work you  
14 did on the Shoemaker case up to the point of filing  
15 this complaint. Can you explain to me what work you  
16 did on the Shoemaker case after this complaint was  
17 filed?

18 A. Sure. I want to be as clear as the  
19 question was. When I was answering earlier because of  
20 the way -- I was answering through the filing of the  
21 complaint. When you saw page 69 when this complaint  
22 was filed I already left the firm. Making sure you saw  
23 that.

24 Q. I understand.

25 A. Fair enough. Now I forgot the question.

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1 Were you asking what happened later?

2 Q. What work did you do on the Shoemaker  
3 case after the filing?

4 A. Helped the client answer written  
5 discovery, prepared written discovery that was  
6 propounded to the defendant, retained experts, both  
7 medical experts and one economist expert, attended  
8 and/or took depositions before the expert witness  
9 depositions. Some I attended and did not take. Some I  
10 took the only one there. It was a variety. I attended  
11 a second mediation with Afsoon Hagh. This one was  
12 during the litigation.

13 Well, obviously, you asked from the  
14 complaint forward. There would have been motion  
15 hearings I went to. I may have even argued part of it.  
16 That part I am not as sharp on memory-wise. I don't  
17 want to get -- I'll answer the question. When we would  
18 get things, I prepared summaries of it, whether it was  
19 Vanderbilt responses to discovery, key points from  
20 deposition transcripts. Once I would get the expert's  
21 opinion orally prepare the expert disclosures. Rule 26  
22 disclosures is the name of that.

23 As part of that maybe prepare summaries  
24 to send to those experts, summaries of records,  
25 summaries of depositions, summaries of Vanderbilt's

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1 discovery responses, speak with them to learn their  
2 opinions to prepare the corresponding Rule 26  
3 disclosures. I might be leaving something out. Off  
4 the top of my head, those are the categories I would  
5 use.

6 Q. Just for the record, I am not asking sort  
7 of a blow by blow.

8 A. Then you could have cut me off.

9 Q. That's good because you did what I asked,  
10 which is I wanted explanation of generally what kind of  
11 work you did on this matter after the filing of the  
12 complaint. In the same vein I want to ask you  
13 generally what work did Brian Manookian do on the  
14 Shoemaker case after the filing of this complaint?

15 A. I can answer that. Easily through the  
16 time of -- I can answer that. What I am trying to  
17 figure out is he took and/or attended a bunch of  
18 depositions. He argued a good number of the motions I  
19 was thinking of, a lot of discovery disputes, debates  
20 about people and service issues, whether they were --  
21 he likely wrote the majority of those discovery related  
22 motions, whether we were the motion filer or response  
23 filer. So depositions, motion practice. He would have  
24 prepared written discovery that was propounded on  
25 Vanderbilt. That's my list right now for that answer.

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1 Q. I will ask the same question. After the  
2 filing of this complaint, what work did Afsoon Hagh do  
3 on this?

4 A. She attended that second mediation, first  
5 one during the litigation. I think she prepared that  
6 mediation statement. I don't remember, but I don't  
7 think I did, so she would have done that. I can't  
8 picture her or remember her attending or taking any of  
9 the depositions Mr. Manookian and I were at. If I am  
10 forgetting one or something, hopefully the transcript  
11 shows who was there in the appearance section. Until I  
12 withdrew from the case she would have argued some  
13 motions. She would have argued some of those discovery  
14 motions. She would have attended a case management  
15 conference like I would have. Maybe at times it was  
16 one of us without the other or both of us. Then once I  
17 withdrew from the case, that's where I don't know one  
18 way or another.

19 Q. When did you withdraw from the case?

20 A. October 2020 and I think it was October  
21 1st. If I am wrong there is a letter that documents  
22 the date. By withdrawal I mean where I told Ms. Hagh  
23 and the client I was going to withdraw. I think it was  
24 a few days after I filed the motion about withdrawing.

25 Q. What caused you to want to withdraw from

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1 the case?

2 A. I did not want to withdraw.

3 Q. Why did you withdraw?

4 A. I called the board of professional  
5 responsibility on October 1st, 2020 or a day or two on  
6 either side of that about recent conversations I had  
7 with the client and Ms. Hagh that I was concerned  
8 about. I had a feeling I was supposed to withdraw, but  
9 you read one of those rules in a book and it says what  
10 it says, but I wanted to call whatever they call that  
11 where they tell you what they think because it's what  
12 they do. They said I needed to withdraw and said I had  
13 to send a letter internally, which I did, and I later  
14 filed the corresponding motion to withdraw.

15 Q. If you can answer this question without  
16 violating a privilege, because I am sensitive to the  
17 privilege issue here, so I will ask the question and  
18 you can answer or not answer. If you can answer this  
19 question without violating privilege, what was the  
20 ethical issue that caused you to feel that you had to  
21 withdraw?

22 A. When the board person on the very first,  
23 you know, the only phone call I had to them about it  
24 told me I had to withdraw, that was it.

25 Q. What were the underlying issues that

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1 caused you to call the board?

2 A. A comment made by the client within about  
3 a week of that and things said by Ms. Hagh within about  
4 a week of that and those two things happening so close  
5 to one another. My concern that if those things were  
6 being said that professionally relationship wise I was  
7 concerned I was supposed to withdraw and then being  
8 told that is why I did it.

9 Q. Were they things said about you?

10 A. Yes.

11 Q. Were you aware that after your withdrawal  
12 the Shoemaker plaintiffs engaged John Edwards to serve  
13 as co-counsel in this case?

14 A. I am.

15 Q. Do you know when that engagement  
16 occurred?

17 A. I know I have seen the -- and this might  
18 not be the right name -- motion for pro hac vice  
19 admission Mr. Edwards filed and maybe somebody else in  
20 his firm. That would be the date I would give you, but  
21 I don't remember the date.

22 Q. Do you remember if it was shortly after  
23 your withdrawal, or was there a time period between?

24 A. I don't remember it. I was asking you to  
25 -- whatever the date he filed the motion and then it

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1 was -- an order was entered granting it would be the  
2 date.

3 Q. That's a fair answer. Do you know what  
4 Mr. Edwards' role on the Shoemaker case was?

5 A. I know what I was told.

6 Q. What were you told?

7 A. That he was to be the trial attorney. He  
8 is very well known, very well accomplished and that if  
9 the case -- that's my answer unless there is a  
10 follow-up.

11 Q. I guess my follow-up is why didn't Ms.  
12 Hagh handle the matter and try the case without  
13 co-counsel?

14 MR. SPRAGENS: Object to the form and  
15 foundation. You can answer.

16 THE WITNESS: I am going to say the  
17 objection didn't affect my answer, Mr. Young. I don't  
18 know how to answer that because I don't know the  
19 answer.

20 BY MR. YOUNG:

21 Q. Did you believe Ms. Hagh was capable of  
22 trying this case without co-counsel?

23 MR. PRICE: Mr. Young, could you rephrase  
24 that question. Any attorney who is licensed here is  
25 certainly qualified to try a case. The question I

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1 guess should be more narrow as to that.

2 BY MR. YOUNG:

3 Q. I will rephrase that question. Did you  
4 have any reservations about Ms. Hagh's ability to try  
5 this case without co-counsel?

6 A. I will tell you why I never thought about  
7 that issue in your question to have an answer for you  
8 in this deposition. My understanding was that somebody  
9 like Mr. Edwards was going to get brought on board.  
10 Knowing that I hadn't thought through what your  
11 question is now. How I would answer that -- I mean  
12 there are two ways to answer the question at least, and  
13 one of them is not something I am a fan of talking  
14 about one way or another. That's not something I go  
15 around thinking about one way or the other. They  
16 either do stuff or they don't.

17 Q. Sure. I think your answer is a fair one.  
18 Let me make sure I understand. It was your  
19 understanding from the time that you withdrew -- it was  
20 always your understanding from the time you withdrew  
21 that another co-counsel was going to be brought in? Is  
22 that what you are saying?

23 A. I knew after I withdrew that somebody  
24 like Mr. Edwards was going to be brought on board, yes.

25 Q. You never took time to think about

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1 whether he should have been brought in, shou dn't have  
2 been brought in, Ms. Hagh was capable or not capable of  
3 trying the case, because you always knew there was  
4 going to be somebody else coming in?

5 A. I was told there was going to be an  
6 attempt to bring somebody in. To go back to the board  
7 call, I wasn't contemplating whether to withdraw,  
8 whether to free up my calendar. I suddenly was told  
9 within a week of those two phone calls with the client  
10 and co-counsel told by the board I had to withdraw.  
11 When I was told I had to withdraw, I didn't think to --  
12 I had to do what I had to do.

13 I wasn't in the position I like in an  
14 ethics class of certain things. I was following the  
15 board's advice. I knew very soon after that they,  
16 being the plaintiff's side of the case, were going to  
17 bring on somebody like John Edwards. Your question is  
18 too fresh for me to have an answer.

19 Q. That's fine. I understand. I think you  
20 have given me an appropriate answer. Appreciate that.  
21 Did you ever enter into a new engagement letter with  
22 Mr. Keefer after you left Cummings Manookian?

23 A. Not an agreement like we looked at that's  
24 an exhibit, no.

25 Q. Why not?

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1           A.       Well, for a good period of time, I was  
2 under the understanding the original agreement I laid it  
3 out.

4           Q.       Did you think the original agreement  
5 continued to govern the relationship between Mr. Keefer  
6 and the attorneys on the case?

7           A.       Yes.

8           Q.       Do you know if either Mr. Manookian or  
9 Ms. Hagh entered into a new written engagement letter  
10 with Mr. Keefer?

11          A.       I do know that.

12          Q.       You know that they did?

13          A.       I know they did, yes.

14          Q.       Do you know when they did?

15          A.       I have a copy of the document. There is  
16 a date on the first page that's one date and a date a  
17 couple of weeks or so later that he signed it.  
18 Whatever that is I don't remember the date. I want to  
19 say it was in 2020, but I think you can hear my answer.  
20 Whatever the document says of course is the date I  
21 would point to.

22          Q.       Do you know if it was when you were still  
23 representing Mr. Keefer or after you stopped  
24 representing Mr. Keefer?

25          A.       It was still while I was representing

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1 hi m.

2 Q. Did you ever consider entering a new  
3 engagement agreement for yourself?

4 A. Months later when I learned of that  
5 additional agreement, yes.

6 Q. Do you know if John Edwards ever entered  
7 into an engagement agreement with Mr. Keefer?

8 A. I don't know that.

9 Q. Are you aware that the Shoemaker case  
10 ultimately settled prior to trial?

11 A. Yes.

12 Q. How do you know that?

13 A. Two ways. I don't know which was first.  
14 That Caselink filing system that Nashville state courts  
15 use I have seen it there and I was told by Mr.  
16 Manookian.

17 Q. I want to be very careful about how I  
18 state this next question so Mr. Price doesn't get  
19 upset. Listen carefully to the way I ask this  
20 question. Was the settlement amount ever disclosed to  
21 you?

22 A. I think so if what I was told was  
23 correct.

24 Q. It was by Mr. Manookian?

25 A. Yes.

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1 Q. Have you received any attorney's fees  
2 from the Shoemaker case?

3 A. No.

4 Q. Why not?

5 A. Mr. Young, I don't know how to answer  
6 that. They've not been provided to me; that's why not.  
7 I know that sounds kind of whatever.

8 Q. I understand.

9 A. Okay.

10 Q. Have you asked to be paid attorney's fees  
11 in the case?

12 A. Yes.

13 Q. Did you advance any expenses in the  
14 Shoemaker case?

15 A. I did.

16 Q. How much?

17 A. This is documented on something I think  
18 some people on this Zoom depo have. It was more than  
19 \$60,000, but I don't remember the exact number offhand.

20 Q. Have you been repaid for those expenses?

21 A. Yes, after the settlement.

22 Q. When you said some people on this Zoom  
23 have that, is that because you provided proof of that  
24 to either Mr. Manookian or Ms. Hagh and their counsel?

25 A. Someone on that list you just said

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1 because I know I got a check for it if that makes  
2 sense.

3 Q. It does.

4 A. I may have sent it to -- I sent it to  
5 somebody and soon thereafter those expenses were  
6 reimbursed.

7 Q. Do you know whether all expenses advanced  
8 in the Shoemaker case have been repaid in full?

9 A. No, I don't. I just know about mine.

10 Q. Are you aware of any that are  
11 outstanding?

12 A. No.

13 Q. Do you believe that your firm is entitled  
14 to a portion of the fees from the Shoemaker settlement?

15 A. Yes.

16 Q. Have you formed an opinion about what  
17 percentage your firm is entitled to?

18 A. We had some, I will call it, settlement  
19 discussions about that, and I proposed a percentage, so  
20 to the extent that's a yes, then yes. I did -- yes.

21 Q. When you say you proposed a percentage,  
22 who did you propose a percentage to?

23 A. To the mediator we used.

24 Q. There was a mediation about the fee  
25 division?

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1           A.       Yes, but I -- it wasn't where we all sat  
2 down classic mediation. It was agree to the mediator,  
3 send a written statement, talk with the mediator, he  
4 talked with us separately. There was no powwow at  
5 some geographic location.

6           Q.       Before I ask the next question, let me  
7 ask do you believe those mediation discussions are  
8 privileged or confidential?

9           A.       I do when they occurred. I leave it up  
10 to Mr. Price what happens when there is an attorney's  
11 fee dispute what happens to that privilege.

12           MR. PRICE: I will tell him not to answer  
13 that as to the amounts. Those are settlement  
14 negotiations. We have a lawsuit about that, so other  
15 than the fact there were negotiations, that's fine, but  
16 I don't expect him to talk amounts or percentages.

17           MR. YOUNG I was trying to be cognizant  
18 of that. That's why I asked the question the way I  
19 did. I didn't want to step on your toes.

20           Q.       Do you believe that Afsoon Hagh or Hagh  
21 Law is entitled to a portion of the fees from the  
22 Shoemaker settlement?

23           A.       I can easily answer about Afsoon Hagh. I  
24 don't know enough about Hagh Law to answer that part of  
25 the question. She did work on the case, so, yeah.

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1 Q. Again, I don't want to ask a question  
2 that is going to cause you to violate some privilege,  
3 but just have you formed an opinion as to what  
4 percentage Afsoon Hagh is entitled to?

5 A. No, except that when I offered a  
6 percentage, that I won't state right now, to that  
7 mediator I mentioned, the resulting math would have  
8 given her a percentage that would answer your question  
9 within that settlement discussion.

10 Q. I understand. Do you believe that Brian  
11 Manookian or Manookian, PLLC, is entitled to a portion  
12 of the Shoemaker fees?

13 A. Yes, I would have thought so for Brian  
14 Manookian, but I learned somewhere along the way,  
15 whether it's correct or not, he said he is not seeking  
16 a fee or portion of the fee is the way to say that. If  
17 that's not true, yes, he did work on the case and did  
18 very good work.

19 Q. Again, have you formed an opinion as to  
20 what percentage Mr. Manookian should be entitled to?

21 A. No.

22 Q. Do you believe that John Edwards' law  
23 firm is entitled to a portion of the fees from the  
24 Shoemaker settlement?

25 A. My understanding is he has already gotten

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1 a percentage of the attorney's fee per the contract --  
2 per some agreement. I told you I don't know if there  
3 is a contract -- per an agreement and, yes, he already  
4 got it.

5 Q. Do you believe that Cummings Manookian,  
6 PLC, is entitled to a portion of the fee from the  
7 Shoemaker settlement?

8 A. This is how I would answer that. I know  
9 that a small percentage of the work I did that I  
10 discussed with you today was while I was at Cummings  
11 Manookian. To that extent, yes, because I can talk  
12 about me. That's my answer.

13 Q. Have you formed any opinion as to what  
14 percentage that should be?

15 A. Yes, and I hope you have it. I did some  
16 kind of affidavit or declaration about that at one  
17 point where I really looked at the details and tried to  
18 estimate what percentage of my work was when I was at  
19 Cummings Manookian. I put a lot of time into figuring  
20 out that number, although I don't recall it right now.  
21 That was my best work to come up with a number. I hope  
22 you have that.

23 Q. I am not sure that I do. When was this  
24 affidavit drafted?

25 A. Affidavit or declaration. It was in the

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1 past 12 months. It was in the past 12 months. It  
2 would have been since the settlement I believe, but  
3 certainly in the past 12 months.

4 Q. Who did you provide that affidavit or  
5 declaration to?

6 A. That's what I am trying to think of. I  
7 don't remember, but it was with the intention of it  
8 being given to you.

9 Q. Who asked you to prepare it?

10 A. Mr. Manookian.

11 Q. That affidavit or declaration lays out  
12 what you believe Cummings Manookian's portion should be  
13 of the Shoemaker fees?

14 A. Not exactly. My memory is it tracks what  
15 I thought what percentage of my work was while I was  
16 still at Cummings Manookian related to the Shoemaker  
17 case.

18 Q. I understand that. I guess my follow-up  
19 question to that is would it be your testimony today  
20 that we could use that percentage and figure out then  
21 it would be your opinion that that percentage somehow  
22 factors into what Cummings Manookian should be entitled  
23 to in fees?

24 A. Yes, but only as to my work. I am not  
25 aware of some of your -- everybody on this call some of

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1 your other issues.

2 Q. I think I understand. Let me ask a  
3 hypothetical and see if I am understanding correctly.  
4 Let's say ultimately you would be entitled to 30  
5 percent of the fees. I am completely making up that  
6 number. If you were entitled to 30 percent of fees and  
7 your affidavit indicated that 10 percent of your work  
8 was done while at Cummings Manookian, it would be your  
9 belief that Cummings Manookian would be entitled to 3  
10 percent of the attorney's fees? Am I understanding  
11 that correctly?

12 A. Yes and no.

13 Q. Tell me where I am wrong.

14 A. I am not sure you are wrong, but I am not  
15 sure you are right. Say this thing I remember drafting  
16 says I spent 5 percent of my time on the Shoemaker case  
17 while I was at Cummings Manookian. I am not sure of  
18 that 5 percent if Brian Cummings actually gets a  
19 portion of that and a portion is the firm. That's the  
20 part I am not -- there might be a division of that  
21 division.

22 Q. I understand. I think I am following you  
23 with that. After this complaint was filed in February  
24 2019, was an amended complaint ultimately filed in the  
25 Shoemaker case?

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1 A. An amended complaint was later filed.

2 Q. Who drafted the amended complaint?

3 A. I know it wasn't me because I had  
4 withdrawn.

5 Q. It was sometime after October 2020?

6 A. Yes.

7 Q. If you know, why did it become necessary  
8 to file an amended complaint?

9 A. My understanding is there was a motion  
10 hearing or argument or both about whether the complaint  
11 sufficiently laid out what I am going to call a direct  
12 liability claim against Vanderbilt and Judge Binkley  
13 here in Nashville, whatever the specific ruling was,  
14 allowed or encouraged amended complaint to cover it  
15 that way.

16 Q. Do you have an opinion whether it was  
17 necessary to amend the complaint?

18 A. If it helped make sure a claim we wanted  
19 on behalf of the plaintiff would not be dismissed prior  
20 to trial, then sure. Necessary, great idea, whatever  
21 phrase one would use, sure, do that.

22 Q. I want to ask you about a few other cases  
23 that I don't know whether you were involved in or not.  
24 You can let me know. Were you involved in the Miller  
25 versus Vanderbilt medical case?

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1 A. No.

2 Q. What about Brooks v. Reiniking (phonetic  
3 spelling)?

4 A. No.

5 Q. What about Beckwith versus Lattimore  
6 Black?

7 A. No. The reason I hesitated is because  
8 someone came to our office one day related to the  
9 client side of that case wanting to speak with somebody  
10 and I spoke with him, so I didn't want to give a quick  
11 no because I know that happened. I didn't do any work  
12 on that case. I don't even know if I listed it as  
13 co-counsel. I don't think I was. I know I had that  
14 contact, but that was random. Somebody showed up  
15 unscheduled and wanted to talk about it and was  
16 involved, so I briefly spoke with that person.

17 Q. You don't know the current status of that  
18 matter?

19 A. No. I need to take a two minute break.  
20 Sorry for that.

21 Q. I am actually done.

22 A. Perfect timing. I still need a break.

23 (A break was taken.)

24 \* \* \* \* \*

25  
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1 BY MR. YOUNG:

2 Q. Back on the record. I have a couple of  
3 follow-up questions. You mentioned that you were  
4 repaid about \$60,000 for expenses you advanced in the  
5 Shoemaker case. Do you recall who repaid you that?  
6 Was it John Edwards? Afsoon Hagh? Where did those  
7 funds come from?

8 A. I don't remember. I don't know.

9 Q. You also testified that --

10 A. Let me say this. It wasn't Afsoon Hagh.  
11 I didn't receive a check from an individual -- I know  
12 that -- or John Edwards. I didn't get a check that  
13 says John Edwards. Might have been wired from John  
14 Edwards' firm, but even with that being my best memory,  
15 I am not sure that's right.

16 Q. You think you got a wire from a law firm?

17 A. I don't remember a check, but I know it  
18 was not from an individual attorney no matter how I got  
19 paid. That would be very unusual and I would remember  
20 that.

21 Q. You don't remember whether Mr. Edwards'  
22 firm or Bass Berry Sims or somewhere else?

23 A. I don't remember.

24 Q. You mentioned earlier in your testimony  
25 that you knew shortly after you withdrew that another

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1 co-counsel was going to be brought in on the Shoemaker  
2 case. Do you remember that?

3 A. Yes.

4 Q. Who told you that, that new counsel was  
5 going to be brought in?

6 A. Mr. Manookian.

7 Q. Did he say that it was going to be John  
8 Edwards or it's going to be somebody else?

9 A. I don't remember initially that he said  
10 John Edwards' name, but then at some point in him  
11 talking to me about that at different times it became  
12 about John Edwards.

13 MR. YOUNG: Those are all the questions I  
14 have. Thank you.

15 \* \* \* \* \*

16 EXAMINATION

17 BY MR. SPRAGENS:

18 Q. Mr. Cummings, this is John Spragens. We  
19 met before. I represent Brian Manookian, PLLC, in this  
20 matter. Can you hear me?

21 A. I can.

22 Q. Just to follow up on Mr. Young's  
23 questions he was just mentioning, it's your position  
24 that you were repaid all of your costs in the Shoemaker  
25 case; is that right?

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1           A.       I was repaid the litigation expenses I  
2 advanced and paid, yes.

3           Q.       When I say costs I am distinguishing  
4 between attorney's fees, but in terms of hard costs you  
5 advanced, you were repaid all your hard costs?

6           A.       Yes.

7           Q.       Whatever account those came from those  
8 were ultimately the client's funds; is that right?

9           A.       I don't know how to answer that. I think  
10 they were held by the law firm and I think the client  
11 probably got their percentage. I don't know -- it came  
12 out of the settlement. I don't know if it's the  
13 client's funds.

14           Q.       I guess what I mean is you were paid  
15 pursuant to an agreement between you or Cummings  
16 Manookian and the client in the Shoemaker case, right?

17           A.       Repeat that or rephrase it.

18           Q.       You were paid pursuant to an agreement  
19 between you, as an attorney, and the client; is that  
20 right?

21           A.       I think in part.

22           MR. PRICE: Objection.

23           THE WITNESS: I think in part, yes. It  
24 was Mr. Manookian who spoke with me about if I agreed  
25 that funds could be transferred to John Edwards' firm

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1 that would hasten the ability for me to get my  
2 litigation expenses repaid. That was the discussion I  
3 had with Mr. Manookian.

4 BY MR. SPRAGENS:

5 Q. But the payment of the funds was pursuant  
6 to an agreement between you and the client?

7 MR. PRICE: Object to the form of the  
8 question referring to them as funds as opposed to  
9 costs.

10 MR. SPRAGENS: I'm happy to rephrase.

11 Q. The repayment of any advanced costs that  
12 you were paid, the \$60,000 you testified to earlier,  
13 that was pursuant to an agreement between you and the  
14 client?

15 A. Yes.

16 Q. I think you testified you have been  
17 deposed four times; is that right?

18 A. At least four, because those are the four  
19 I remember.

20 Q. You mentioned you had your deposition  
21 taken in a board of professional responsibility matter;  
22 is that right?

23 A. Yes.

24 Q. That was taken by Bill Moody?

25 A. Yep.

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1 Q. That deposition related to the Diamond  
2 Doctor case you mentioned earlier?

3 A. Yes, it was related to a complaint with  
4 the board by the Diamond Doctor people, yes.

5 Q. Were all your responses in that  
6 deposition truthful?

7 A. As far as I remember, yes, they were  
8 truthful based on what I knew at the time absolutely.

9 Q. In that deposition you testified you have  
10 had no role in any of the actions that were alleged to  
11 have violated the rules of professional conduct?

12 A. No role in the -- the way you phrased  
13 that I don't recall that being a question and answer.

14 Q. Generally speaking, you testified that  
15 you didn't have anything to do with any actions related  
16 to the Diamond Doctor case that were alleged to violate  
17 the rules of professional conduct?

18 MR. PRICE: Object to leading form of  
19 that question.

20 THE WITNESS: I know if I was asked about  
21 whether I had a role in putting up this video website  
22 that I remember being the focus of that, I know I had  
23 no role in that. If there is a specific issue, I would  
24 need it brought up to me. I was a defendant in the  
25 underlying litigation, so they must have thought I had

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1 some role in it, but I would have answered the  
2 questions in the deposition honestly.

3 BY MR. SPRAGENS:

4 Q. If we compared your responses in that  
5 deposition to e-mails and text messages between you and  
6 Mr. Manookian, is it your view today all those  
7 responses would be truthful?

8 A. Sure, my responses were truthful in that  
9 deposition, yes.

10 Q. Before today's deposition did you speak  
11 to Phillip Young at any point?

12 A. Yes.

13 Q. On how many occasions did you speak to  
14 Mr. Young?

15 A. At least as many times as I have had to  
16 send a check related to matters I settled since I left  
17 Cummings Manookian, at least one other time when I know  
18 he wanted to get dates for when my deposition was first  
19 scheduled, this deposition, and I think I called him at  
20 one point. This might have been before I hired Mr.  
21 Price, but either way I wanted to make sure my pursuing  
22 an attorney's lien issue didn't violate a bankruptcy  
23 stay, because I didn't want to run afoul of that in the  
24 bankruptcy court.

25 Q. Any other times you can think of?

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1           A.       Not that I remember, but even that, I  
2 mean that number already probably is six to eight  
3 minimum.

4           Q.       The attorney's lien issue you are  
5 referring to is a lawsuit you filed against -- I am  
6 sorry if I get this wrong -- Mr. Manookian and/or his  
7 law firm and/or Ms. Hagh and her law firm, correct?

8           A.       The attorney's lien issue I was talking  
9 about was my interest in an attorney's lien related to  
10 the Shoemaker matter. I don't think Mr. Manookian is a  
11 defendant in that.

12          Q.       That's a case currently pending in  
13 Davidson County, right?

14          A.       My lawyer would have to tell me where  
15 it's pending right now.

16          Q.       Do you know as you sit here who the  
17 defendants are?

18          A.       No, because you said somebody that I did  
19 not think was a defendant, so maybe I don't know.

20          Q.       As you sit here, who are the defendants  
21 you can remember in the attorney's lien action you are  
22 referring to about the Shoemaker case?

23          A.       I believe I don't remember because you  
24 listed one in your question I didn't think was a  
25 defendant.

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1 Q. You don't remember any of them?

2 A. I can tell who I think it is, but, again,  
3 with your question including somebody I don't remember,  
4 I am worried I don't remember it right.

5 Q. That's fine. Don't rely on me. Tell me  
6 who you think it is.

7 A. Mr. Keefer and Ms. Hagh.

8 Q. Did you understand Mr. Young was the  
9 receiver in an action pending in Williamson County  
10 related to the Chase case?

11 A. Yes and no. I don't know if he was the  
12 receiver because of the Chase case, but, yes, I know he  
13 has the hat of the receiver somehow and it stems from  
14 the Chase case is my understanding.

15 Q. Are you aware of whether he was appointed  
16 by the court to collect the sanctions award in or  
17 related to the Chase case?

18 A. I don't know how he got that role.

19 Q. Have you ever spoken to Jeanne Burton,  
20 the trustee in this case?

21 A. Maybe once, but that's only because I  
22 don't remember doing it at all.

23 Q. Do you have any understanding whether  
24 Cummings Manookian is still a going concern as of  
25 today's date?

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1 A. I am sorry, which firm?

2 Q. Cummings Manookian, PLLC.

3 A. No, I don't know.

4 Q. Do you know if Cummings Manookian, PLLC,  
5 registration is still active with the Tennessee  
6 Secretary of State?

7 A. I do not. Wait. It might be on one of  
8 these exhibits. If it's on an exhibit, I know that.  
9 Hold on. According to Exhibit 1 to this deposition --  
10 and I don't know when this was generated. It says  
11 5-9-22. All I know is it says it was dissolved in  
12 October of 2020, but I wouldn't have known that if I  
13 didn't see this document today.

14 Q. Was Afsoon Hagh a member of Cummings  
15 Manookian?

16 A. Not while I was there.

17 Q. After you left did you ever understand  
18 that she became a member of the firm?

19 A. I don't know one way or another.

20 Q. So I understand, it's not your testimony  
21 that she was ever a member of Cummings Manookian; is  
22 that right?

23 A. Correct, not while I was there, and I  
24 don't know regarding after I left.

25 Q. If I understood your testimony earlier,

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1 it was your view that she was an independent contractor  
2 who worked on occasion on behalf of Cummings Manookian  
3 while you were affiliated with them?

4 MR. PRICE: Objection, foundation.

5 THE WITNESS: No, that's not what I was  
6 trying to say.

7 BY MR. SPRAGENS:

8 Q. Tell me what you were trying to say.

9 A. Tell me the question.

10 Q. I asked if she was an independent  
11 contractor who worked on occasion on behalf of Cummings  
12 Manookian, but maybe I misunderstood your testimony  
13 earlier. Clarify that point.

14 A. Sure. She was somebody who had access to  
15 our confidential files on the server. She was somebody  
16 who had access to our building where we had  
17 confidential files. She was somebody who in 2017 I was  
18 asked to add to our legal professional liability  
19 coverage, the only other attorney besides me and Mr.  
20 Manookian. She was listed as someone at our office  
21 address and we were the only law firm there. She had a  
22 Cummings Manookian e-mail address she used. Those are  
23 the things I was thinking of.

24 My understanding beyond that is we -- the  
25 firm started paying health coverage that included her,

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1 but that's really not the focus of my thoughts, but her  
2 access to our confidential files, her work in the firm,  
3 her showing up at case management conferences on behalf of  
4 the firm and its clients. That's what I was  
5 thinking of.

6 Q. I believe you testified earlier she was  
7 never paid by Cummings Manookian?

8 A. Not while I was there. Brian Manookian  
9 had told me when he got money obviously they were  
10 married.

11 Q. To that same point, I guess when you say  
12 she was added to the health insurance for the firm, did  
13 you mean she was independently insured by the firm or  
14 that she was a dependent of one of the main partners of  
15 the firm?

16 A. That I don't know. I know the health  
17 insurance was added after the firm began and it was  
18 related to that and that I didn't have my own coverage  
19 through the firm.

20 Q. So if I am understanding correctly, Mr.  
21 Manookian initiated, obtained health insurance through  
22 the firm and Ms. Hagh, as his wife, was a part of that  
23 health insurance?

24 A. That's correct.

25 Q. Would that have been the same whether or

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1 not she did any work on behalf of Cummings Manookian?

2 A. I don't know because I didn't make that  
3 request.

4 Q. Did he have any children at the time the  
5 health insurance was initiated?

6 A. I don't know that either.

7 Q. You don't recall at the time you  
8 practiced there whether Mr. Manookian had any children?

9 A. I know they had their first child at some  
10 point. I just don't recall what year that was. It's  
11 now 2022. I left in -- I don't recall if their oldest  
12 is four years old or whatever that math would be.

13 Q. Do you recall whether any children were  
14 added to the health insurance plan that Cummings  
15 Manookian took out?

16 A. No, I don't.

17 Q. You don't recall Cummings Manookian  
18 paying Ms. Hagh a salary, do you?

19 A. No, I don't.

20 Q. Or any sort of hourly payment either; is  
21 that right?

22 A. Correct.

23 Q. I believe you testified you don't have  
24 any recollection of Ms. Hagh using the office space you  
25 described as hers?

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1 A. Sorry, can you repeat that.

2 Q. I believe you testified earlier, am I  
3 correct, that you can't picture Ms. Hagh using the  
4 office space that you described as hers?

5 A. No. If I said that, that's not what I  
6 meant to convey. I was saying I didn't remember the  
7 last time I saw her in it. I absolutely can see her  
8 using the office space. We moved Jim Pepe out of that  
9 office space so she could use it. That's the reason I  
10 remember it. She was there occasionally.

11 Q. But at the time you left the firm in  
12 August or September 2018, you don't have a recollection  
13 of her using that space?

14 A. No, that's not correct. When she was  
15 there she would use that space.

16 Q. You have recollection of her being there  
17 August and September 2018?

18 A. Not during those months I do not.

19 Q. When is the first time before that you  
20 can recall her being there using that office space?

21 A. I don't remember.

22 Q. Do you have any recollection of her using  
23 it in July of 2018?

24 A. No. No matter what month you ask I am  
25 not going to know. I was on a different floor of that

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1 building. I am still not going to know if you want to  
2 go through other months.

3 Q. That's fine. I think you have testified  
4 she received mail at the 45 Music Square West address?

5 A. She received mail there, yes. Whether she  
6 was using the address of 45 Music Square West or 47  
7 Music Square West.

8 Q. What's the distinction between those two  
9 addresses?

10 A. One of them doesn't exist as an actual  
11 property.

12 Q. Are they both valid mailing addresses?

13 A. 45 Music Square West is an actual place.  
14 There is no building that exist as 47 Music Square  
15 West. Even if mailed to that written address, it got  
16 delivered to 45 Music Square West.

17 Q. Was it your understanding that was just a  
18 postal service mixup where they would deliver the  
19 47 Music Square West to 45 Music Square West building,  
20 or were there two addresses co-located at that same  
21 building?

22 A. I don't know to answer that either way.

23 Q. Did anyone else or any other entity  
24 receive mail at 45 Music Square West or 47 Music Square  
25 West during the time you were affiliated with that

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1 address?

2 A. Doug Rice would have. I know that.

3 Brian Manookian would have. I would have. I don't  
4 remember if Jim Pepe did. Afsoon would have. Outside  
5 of that list, I can't think of anyone. We would get  
6 mail for the former occupants, but they weren't there  
7 anymore.

8 Q. Did you ever have any knowledge of Rocky  
9 McElhaney's law firm receiving mail at that address?

10 A. Not that I remember, no.

11 Q. Do you know if Afsoon Hagh ever stopped  
12 using that mailing address?

13 A. Which one?

14 Q. 45 Music Square West or 47 Music Square  
15 West?

16 A. I don't know one way or another.

17 Q. After you left Cummings Manookian and Mr.  
18 Manookian was suspended from the practice of law, did  
19 you believe that Cummings Manookian was still a going  
20 concern entitled to represent clients?

21 A. Can you repeat that and maybe rephrase  
22 it.

23 Q. After you left Cummings Manookian and Mr.  
24 Manookian was suspended from the practice of law, did  
25 you believe the firm Cummings Manookian could still

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1 represent clients?

2 A. Well, Mr. Manookian was suspended, so he  
3 couldn't. If Ms. Hagh was still there, she could is  
4 the only way I can answer that.

5 Q. You were involved in the formation of  
6 Cummings Manookian I think you testified earlier; is  
7 that right?

8 A. Yes.

9 Q. You understand that a professional  
10 limited liability company has to have professionals as  
11 members of the company; is that right?

12 A. That makes sense. I will say yes.

13 Q. So my question is without you as a member  
14 of the firm or Mr. Manookian as a practicing lawyer in  
15 the firm, could Cummings Manookian continue to  
16 represent clients?

17 MR. YOUNG: Objection to the extent it  
18 calls for a legal conclusion.

19 THE WITNESS: I don't know that I have  
20 expertise to answer that. You are asking about after I  
21 left whether my old firm could keep operating under the  
22 scenario you outlined.

23 BY MR. SPRAGENS:

24 Q. Sure, without any members practicing law?

25 A. I don't know. I would have to look into

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1 that. I understand the question, but I don't know  
2 that.

3 Q. After you withdrew from the firm, did the  
4 firm continue to have permission to use your last name  
5 as its moniker?

6 A. That's a good question. I don't know.

7 Q. Did you think about that after you left?

8 A. I am thinking I may have, but I also  
9 realize it must not have mattered too much to me  
10 because I don't remember if I raised it or what we said  
11 about it.

12 Q. You don't recall if you ever had a  
13 conversation with Mr. Manookian or Ms. Hagh or anybody  
14 about whether Cummings Manookian could continue to use  
15 the name Cummings in its professional marketing?

16 A. I don't remember that. I do remember  
17 asking that something on their website -- I will call  
18 it a button or a tab -- that still allowed people to  
19 click on something saying something like meet Brian  
20 Cummings, and I know I asked that stop because I wasn't  
21 there. That's the kind of thing I remember, but I  
22 don't remember -- to answer the question you asked, I  
23 don't remember that specific issue.

24 Q. Do you recall whether the operating  
25 agreement had anything to say about the ongoing use of

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1 your name in the event you withdrew from the firm?

2 A. I don't. I would have to see what it  
3 says.

4 Q. You were asked questions by Mr. Young  
5 about the lease arrangement between 45 Music Square  
6 West Partners, if I got that name correct, but whatever  
7 the entity was that owned 45 Music Square West, and  
8 Cummings Manookian. Do you remember those?

9 A. Yeah. I have a copy here.

10 Q. I think you testified that the rent  
11 payment was based upon the total mortgage payment; is  
12 that correct?

13 A. That's my memory because I think it  
14 matched up pretty closely, so, yes. I don't think it  
15 was a coincidence.

16 Q. Have you been a landlord before in other  
17 contexts outside of any involvement in that building?

18 A. Yes.

19 Q. In your view is there anything unusual or  
20 improper about charging a rent rate that covered  
21 mortgage payment on a property?

22 A. I hope not because we did it and, in  
23 fact, on the firm's tax returns, it listed the rent as  
24 an annual expense on line item 13 on our annual tax  
25 returns for everybody to see, so it was no secret.

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1 Q. My question is just really you didn't  
2 think there was anything untoward about that?

3 A. No.

4 Q. You thought that was part of the way  
5 businesses handle these things all the time?

6 A. I don't know about other businesses. I  
7 didn't think there was anything untoward about it, no.  
8 That's why I was saying it was on our annual tax  
9 returns for everybody to see. I saw nothing untoward  
10 about it then or now.

11 Q. I think you testified that Cummings  
12 Manookian owned some personal property that was in that  
13 building. Do you recall that?

14 A. I recall that answer, yes.

15 Q. Was any of that personal property paid  
16 for by the mortgage that 45 Music Square West took out  
17 to purchase that building?

18 A. That I don't know, but I know some of it  
19 wasn't. Some of it was paid for by Cummings Manookian  
20 out of the Cummings Manookian operating account and  
21 then was listed on tax returns on behalf of Cummings  
22 Manookian, not on behalf of the entity that owned the  
23 property.

24 Q. Do you know what furniture or other  
25 personal property Cummings Manookian owned?

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1 A. Some of it, yes.

2 Q. What property is that?

3 A. These are items bought from JL Design in  
4 2016 -- a chandelier, a side table, a desk, a desk that  
5 was a lower end desk for 359 as far as dollars, a  
6 chair, another chandelier, an almost \$11,000 desk.  
7 Those are things on one invoice from JL Design, and  
8 there was other furniture beyond that because those tax  
9 returns show purchases and ownership of property from  
10 -- I might get the name wrong -- something like  
11 Mitchell Bob or Mitchell Hunt, some furniture store.

12 Q. You are referring to something you have  
13 in front of you?

14 A. Sure. This is a 2016 invoice from JL  
15 Design that the firm paid on our tax returns for the  
16 45 Music Square West, Nashville, Tennessee.

17 Q. Would you mind if we made that an exhibit  
18 to this deposition so we can all get a copy of it?

19 A. Sure. I have that Lease Agreement as  
20 well if anybody wants it.

21 MR. SPRAGENS: That's fine. Let's make  
22 the Lease Agreement Exhibit 6 to the deposition if I  
23 have my numbering correct and the invoice you were  
24 reading from Exhibit 7.

25 MR. YOUNG: Works for me.

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1 (Exhibit Nos. 6 and 7 were  
2 marked.)

3 BY MR. SPRAGENS:

4 Q. Have you provided those documents to Mr.  
5 Young before today's deposition?

6 A. No. I have not been asked to.

7 Q. I think you mentioned Mahan Associates  
8 prepared the franchise and excise tax returns?

9 A. Yes.

10 Q. Do you have a document in front of you  
11 reflecting that?

12 A. I do. I have one for tax year 2016 and  
13 one for tax year 2017. I have also got a document that  
14 looks like Mahan prepared that's not a tax filing that  
15 shows one of the payments to JL Design for law office  
16 furniture in 2016 from the InsBank account. That's  
17 three documents.

18 MR. SPRAGENS: Is it appropriate to group  
19 those together and make those Exhibit 8?

20 MR. YOUNG: That's fine.

21 (Exhibit No. 8 was marked.)

22 BY MR. SPRAGENS:

23 Q. With respect to the property appraisal  
24 document that Mr. Young showed you as Exhibit 3, do you  
25 know where that \$73,806 amount came from?

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1           A.       I don't, but let me compare it against  
2 2017. I left this out. You guys will see on the 2017  
3 franchise and excise thing there was also firm  
4 purchases of about \$38,000 in rugs that were on the tax  
5 return from Henry's Auction House Rugs that I don't  
6 think I mentioned. That Mitchell company is called  
7 Mitchell Gold and something, but the \$70,000 number or  
8 73,000 is pretty close to what was listed as  
9 depreciated assets on the 2017 tax return where that  
10 totals about \$63,000, so all I can tell you is the  
11 numbers are close, but I, not being there in 2020,  
12 don't know why the number got to 73,000.

13           Q.       There was some question earlier about  
14 maintenance on computers at the firm. Remember that?

15           A.       Yeah, but the first few words of the  
16 question cut out. I heard questions about computers.  
17 Repeat that.

18           Q.       I was asking if you remember Mr. Young  
19 asking some questions about maintaining computers at  
20 the office. Do you remember that?

21           A.       I do.

22           Q.       Do you recall any specific maintenance  
23 that was done on computers at the office?

24           A.       There is one document I was just  
25 referring to that I think Mahan produced that includes

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1 payments by the firm for networking system at law  
2 office, so, I presume network relates to computers and  
3 that would be a yes, but, otherwise, if I didn't have  
4 this document, I wouldn't --

5 Q. What about Cummings Manookian bank  
6 accounts; did you ever know Afsoon Hagh to have any  
7 signatory authority over Cummings Manookian bank  
8 accounts?

9 A. No. That's how I hope I answered Mr.  
10 Young. I remember Mr. Manookian and I did. Beyond  
11 that I couldn't think of anybody else ever having -- I  
12 forget his phrase -- signature authority on those  
13 accounts, so whether you ask me about Ms. Hagh or some  
14 other person, I don't remember that.

15 Q. Did Ms. Hagh or Hagh Law ever steal or  
16 misuse any Cummings Manookian property as far as you  
17 are aware?

18 A. No, especially not while I was there, no.  
19 I didn't mean to -- I sure hope nothing I said implied  
20 that. I never tried to say that.

21 Q. I am only asking because I think you may  
22 be aware -- I'm not sure -- have you looked at the  
23 adversary proceeding in this case?

24 A. If it's not what my attorney filed about  
25 the attorney's lien, then my answer is no.

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1           Q.       The allegations in this case by the  
2 trustee involve Ms. Hagh and her law firm converting  
3 property that was alleged to be Cummins Manookian  
4 property and using it on her own behalf, so that's why  
5 I was asking that question. Has she to your knowledge  
6 ever misused Cummins Manookian property?

7           A.       My answer is the same, no. I wanted to  
8 be clear. I was worried something I said I was  
9 implying that when I have no knowledge like that.

10          Q.       Let's look at Exhibit 4, the  
11 representation agreement of April 19, 2017. Do you  
12 have that there?

13          A.       I have it, yes.

14          Q.       If you turn to page 3 of that exhibit,  
15 the last section with the header, the header states,  
16 Mediation and Binding Arbitration of any  
17 Attorney-client Disputes. Do you see that section?

18          A.       I do.

19          Q.       Do you understand that section of that  
20 agreement to obligate Cummins Manookian to enter into  
21 mediation and/or binding arbitration with its clients  
22 in the event there is a dispute arising out of that  
23 agreement?

24          A.       Yes. Unless that was a trick question,  
25 that's the way I read it.

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1 Q. I mean I don't know. Is this a fairly  
2 standard representation agreement for Cummings  
3 Manookian at the time you were affiliated with the  
4 firm?

5 A. We added this type of paragraph after we  
6 had started. This wasn't in our initial agreements,  
7 but once it was included, I believe it was included  
8 from that point forward.

9 Q. So at whatever time you all added that  
10 section it became kind of a standard section in your  
11 representation agreements with clients as far as during  
12 the time you were affiliated with Cummings Manookian?

13 A. Yes.

14 Q. Looking at the prior section, which  
15 starts at the bottom of page 2 and continues to page 3,  
16 the header there is Termination of Professional  
17 Relationship. See that?

18 A. I do.

19 Q. Feel free to take a second to look at  
20 that. My question is, is this standard language from  
21 the representation agreement at least at the time you  
22 were affiliated with the firm?

23 A. Yes, I believe it was.

24 Q. You and Mr. Manookian were the ones who  
25 jointly drafted this representation agreement for your

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1 clients; is that correct?

2 A. Correct. Like I said about that  
3 paragraph you asked about a minute ago, we would talk  
4 about things to add in or put in and then it became the  
5 new standard, but, yes, to your question.

6 Q. My understanding of this section of the  
7 agreement the first paragraph essentially covers a  
8 situation in which a client fires the firm and the  
9 second paragraph covers a situation in which the firm  
10 elects to withdraw from representing the client. Is  
11 that fair?

12 MR. PRICE: Object to the form.

13 THE WITNESS: I think it says what it  
14 says, but I'm willing to answer your question about it.  
15 BY MR. SPRAGENS:

16 Q. Was it your understanding when you were a  
17 named partner at that firm that in the event the client  
18 discharged Cummings Manookian as its legal  
19 representative, Cummings Manookian was entitled to  
20 collect advanced costs and also collect from the  
21 proceeds of any recovery a reasonable fee for the work  
22 the firm performed?

23 A. Yes, I believe that's what it says.

24 Q. Was it also your understanding at the  
25 time you were affiliated with the firm that if the firm

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1 elected to withdraw from representing a client that the  
2 firm was still entitled to recover its advanced costs  
3 but was not entitled to recover a reasonable fee for  
4 its legal representation, an attorney's fee in other  
5 words?

6 A. No.

7 Q. That was not your understanding?

8 A. Correct.

9 Q. What was your understanding?

10 A. That if the firm chose to withdraw the  
11 obligation about costs discussed in the paragraph  
12 before was not relieved.

13 Q. I think you and I agree that far. What  
14 about attorney's fees?

15 A. That paragraph is silent that if the firm  
16 chose to withdraw it doesn't say there is no right to  
17 an attorney's fee as covered elsewhere in the  
18 agreement.

19 Q. So in your view those two paragraphs,  
20 first of which states that the firm is entitled to  
21 recover an attorney's fee, and second of which is  
22 silent, that still permits the firm to attempt to  
23 recover an attorney's fee in the event it withdraws?

24 A. Correct, if the firm chose to withdraw,  
25 correct. I keep saying choose. I think there are

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1 withdrawals that aren't a choice, but, yes, is the  
2 answer to your question.

3 Q. When you say there are withdrawals that  
4 aren't a choice, what are you thinking of?

5 A. Well, in the example related to my  
6 attorney's lien issue where you are told -- I am told  
7 or an attorney is told by the board you are required to  
8 withdraw, there is not a choice there. That would be  
9 one difference in my mind from someone or we, a firm,  
10 choosing to withdraw.

11 Q. I believe you testified earlier -- I  
12 think we're done with this Exhibit for now -- you  
13 withdraw from Cummings Manookian in August or September  
14 of 2018; is that correct?

15 A. Yes.

16 Q. It's your testimony that you withdrew  
17 irrespective of Mr. Manookian's eventual suspension  
18 from the practice of law? In other words, that's not  
19 what motivated your withdrawal from the firm?

20 A. I remember Mr. Young asking me that. For  
21 a lot of reasons, I wanted to go start my own firm. I  
22 don't remember Mr. Manookian's what was put in a  
23 question to me as -- I don't know if this was the  
24 phrase -- upcoming suspension driving that decision.  
25 It may have affected the timing of it, but I don't even

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1 remember that being a factor. If I didn't answer the  
2 question, please, reask it.

3 Q. That's fine. I think you clarified  
4 and/or sort of restated what you said to Mr. Young.  
5 When you withdrew from the firm, you relied on that  
6 Article 10.1 of the operating agreement we looked at  
7 earlier to sort of govern your right to the withdrawal,  
8 right?

9 A. I have to look. In 10.1 the 10 is the  
10 part I don't recognize.

11 Q. Sure, paragraph on page 19 -- Exhibit 2  
12 --

13 A. Yeah, the 10 part I don't get the  
14 reference. Ten point one is where?

15 Q. On page 12, withdrawal of member.

16 A. I will read that and ask you to repeat  
17 your question. Let me read it first. I read it. Ask  
18 the question.

19 Q. When you withdrew from the firm, was that  
20 the provision of the operating agreement that governed  
21 your withdrawal?

22 A. I don't know how to answer that. I spoke  
23 with Mr. Manookian about the withdrawal and we worked  
24 out who between him and me wanted which cases. I think  
25 Shoemaker might have been the only one we were both

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1 going to continue to work on. If that complies with  
2 10.1, the answer is yes. If it's different, we went by  
3 our discussions.

4 Q. When Mr. Manookian was suspended from the  
5 practice of law in Tennessee, was it your understanding  
6 that would be the same provision Section 10.1 that  
7 would govern what would happen under the operating  
8 agreement in that event?

9 A. I don't remember if Mr. Manookian was  
10 suspended while I was still at Cummings Manookian that  
11 I ever thought about that. I don't remember thinking  
12 about this paragraph and his suspension, so that's why  
13 I don't have an answer for you.

14 Q. You don't disagree the last sentence of  
15 Section 10.1 says if any member becomes legally  
16 disqualified to practice law in the state of Tennessee,  
17 he shall be deemed to have voluntarily withdrawn from  
18 the company?

19 A. That sentence says what you read it to  
20 say, yes.

21 Q. Did there come a time you became aware  
22 Ms. Hagh started her own law firm?

23 A. I have seen her use Hagh Law on things,  
24 yes.

25 Q. Do you know when you first became aware

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1 she had done that?

2 A. No, I don't. I don't. It would have  
3 been on -- it might have been on something in the  
4 Keefer case, the Shoemaker case, whether it's the first  
5 time it's written or first time you saw it, which is  
6 the first time I saw it. No, I don't remember when  
7 that was. It would have been incidental. I don't  
8 think I got some kind of postcard in the mail or  
9 anything. I think she started using it and at some  
10 point I noticed it. I don't remember when it was.

11 Q. I was just trying to ask you how you  
12 learned that she started her own firm.

13 A. Maybe I -- I don't remember directly, but  
14 I would bet it's that I saw it on something. I saw  
15 Hagh Law and that was it.

16 Q. Let's talk a little bit about the  
17 Shoemaker case, which I believe you testified is the --  
18 tell me if I got this wrong -- the main case you  
19 continued to work on along with Ms. Hagh after you left  
20 the firm? Is that fair?

21 A. Yeah. It's the only one I remember that  
22 we worked on together after that departure. If there  
23 is another one, it doesn't come to mind.

24 Q. I think you testified you don't know  
25 whether Cummings Manookian informed Mr. Keefer that it

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1 was withdrawing from the Shoemaker case; is that right?

2 A. Yeah. Mr. Young asked that. I don't  
3 remember either way. I wasn't trying to say it wasn't  
4 done. I don't remember it.

5 Q. That's fine. You don't have any specific  
6 reason to doubt that Cummings Manookian told Mr. Keefer  
7 it was withdrawing, do you?

8 A. I don't doubt it. I have the same answer  
9 I told Mr. Young. I don't know either way. I am not  
10 trying to cast dispersions or validate something. I  
11 don't remember knowing it, so I don't know it today.

12 Q. It wouldn't surprise you if after you  
13 left and you were no longer a member of the firm and  
14 after Mr. Manookian was no longer entitled under the  
15 operating agreement to be a member of the firm if the  
16 firm had to withdraw from that representation, would  
17 it?

18 MR. YOUNG: Objection, foundation.

19 THE WITNESS: I want to use your word.  
20 Did you say surprised?

21 BY MR. SPRAGENS:

22 Q. Sure, that's what I said.

23 A. I wouldn't be surprised, no. I  
24 understand what you are asking. No, I would not be  
25 surprised if that occurred.

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1 Q. As I sit here as a lawyer like you  
2 reading these documents knowing what transpired, to me  
3 there is no Cummings Manookian unless there has been a  
4 new member added to the firm. There is no Cummings  
5 Manookian after Cummings withdraws and Manookian is  
6 suspended from the practice of law. Isn't that what  
7 you would expect as the signer and co-drafter of the  
8 operating agreement?

9 MR. PRICE: Object to the leading form of  
10 that question.

11 MR. SPRAGENS: This isn't my witness, so  
12 I am leading him.

13 MR. PRICE: I get to object anyway.

14 THE WITNESS: If you two are done, and I  
15 appreciate both of you -- instead of expect, I would  
16 not be surprised. I don't have an expectation about  
17 what companies do after I leave.

18 BY MR. SPRAGENS:

19 Q. You don't know of any other operating  
20 agreement that existed after the one we looked at  
21 earlier today with Mr. Young and just referenced again  
22 a moment ago?

23 A. No, for Cummings Manookian, no. Once I  
24 left I did not see another operating agreement new or  
25 different or any amended operating agreement for a firm

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1 I had already left, correct.

2 Q. A firm that had your name and Mr.  
3 Manookian's name and nobody else's name?

4 A. My answer is the same.

5 Q. I think you testified that with the  
6 Shoemaker case you did not have a separate  
7 representation agreement with Mr. Keefer after you left  
8 Cummings Manookian. Do I have that right?

9 A. Correct.

10 Q. You drafted the signature blocks on that  
11 complaint that we looked at earlier that appear on page  
12 69?

13 A. Yeah, I drafted the whole complaint,  
14 sure. The signature block is part of it. Want me to  
15 pull that up?

16 Q. Not really. I am making sure I have your  
17 testimony earlier correct, which is I think you said  
18 you don't know if Ms. Hagh even reviewed that before it  
19 was filed?

20 A. Correct. That's what I meant to say, and  
21 I will say it this way now. I don't remember sending  
22 this to her to review if that answers your question.

23 Q. Sure. Through filing I think you  
24 mentioned that you conferred with an expert to evaluate  
25 that case?

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1 A. Yes.

2 Q. Was the expert that you retained and  
3 conferred with on that case qualified to testify in the  
4 case under Tennessee Healthcare Liability Act?

5 A. I have been told she wasn't. I was told  
6 by the company that connected me with her and told by  
7 her signing the certificate of good faith that she was.

8 Q. You were asked earlier about the amended  
9 complaint. Do you know whether one of the reasons for  
10 that amended complaint was to address that deficiency  
11 relating to the expert witness?

12 A. No, I don't know that.

13 Q. Just to follow up on something Mr. Young  
14 asked you, you don't have any reason to believe that  
15 Mr. Manookian failed to notify Mr. Keefer of his  
16 suspension from the practice of law in late 2019, do  
17 you?

18 A. Correct. I don't know one way or another  
19 no matter how either one of you ask me that.

20 Q. Did you take any expert depositions in  
21 the Shoemaker case?

22 A. No. I had already withdrawn.

23 Q. I think you testified you prepared  
24 summaries for experts though?

25 A. I did, yes, sir.

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1 Q. Were those medical records summaries or  
2 testimony summaries or something else?

3 A. Both of those, and I think it also  
4 included a summary of some of the discovery responses  
5 because some responses were more pertinent than others.  
6 Those are three things I remember summarizing and  
7 sending to the experts.

8 Q. Do you recall whether Ms. Hagh took  
9 expert witness depositions in that case?

10 A. I know Mr. Manookian told me she did, so  
11 I believe she did.

12 Q. Generally speaking, you have had the  
13 opportunity to observe Ms. Hagh as a plaintiff's  
14 attorney; is that right?

15 A. Yes, but if you follow up on that, I need  
16 some detail about what specifically you would ask  
17 about.

18 Q. I will put it in the broadest way  
19 possible. Among the allegations in this adversary  
20 proceeding it's a suggestion Ms. Hagh is not able to  
21 practice law on her own. You heard Mr. Young ask you  
22 earlier if -- why couldn't Ms. Hagh try this wrongful  
23 death case by herself. My question is, did you have  
24 any reason to think Ms. Hagh was not a capable  
25 plaintiff's attorney?

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1 MR. YOUNG: Object to foundation.

2 THE WITNESS: I do not think Ms. Hagh is  
3 not a capable plaintiff's attorney.

4 BY MR. SPRAGENS:

5 Q. With respect to the Shoemaker case, would  
6 you have tried that case by yourself?

7 A. Yes, but with someone supporting me.

8 Q. Meaning a paralegal or technological  
9 person, or who you thinking about?

10 A. A few things, but along the lines to say  
11 yes to what you are saying and absolutely like a  
12 computer presentation person like Doug Rice who we  
13 mentioned earlier, and in past trials I used somebody  
14 like Mark Hammervold to help with motions in limine to  
15 gather stuff maybe, I will say, spontaneously during  
16 the nights of trial, maybe handle a lesser witness,  
17 but, yeah, I would have tried it.

18 Q. I mean you mentioned Mr. Hammervold.  
19 That's with co-counsel?

20 A. Sorry, maybe I misunderstood the  
21 question. If you can ask again.

22 Q. I think Mr. Young was suggesting why  
23 couldn't Ms. Hagh try that case by herself meaning as a  
24 solo attorney. My question is, wouldn't you, as a  
25 plaintiff's attorney, want to have another attorney to

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1 help you try a multi-million dollar wrongful death case  
2 with overnight motion practice and all those things you  
3 mentioned, and wouldn't you think it was more  
4 reasonable to have co-counsel for the trial in a case  
5 like that than to do it by yourself?

6 MR. YOUNG: Object to foundation.

7 THE WITNESS: Can you rephrase or repeat  
8 that. I understood the words. I don't understand the  
9 question.

10 BY MR. SPRAGENS:

11 Q. In your experience as a plaintiff's  
12 attorney, with a multi-million dollar wrongful death  
13 case on the line, is there anything unreasonable about  
14 engaging a second attorney to try that case?

15 A. The way you phrased it, no.

16 Q. You just testified that you would have  
17 Mr. Hammervold help you with a trial of any significant  
18 case like this?

19 A. I did.

20 Q. Is it your understanding that Ms. Hagh  
21 prepared the mediation statement in the Shoemaker case?

22 A. For the second mediation I did not and,  
23 therefore, I think she did.

24 Q. I believe you testified you withdrew from  
25 the Shoemaker case in October 2020; is that correct?

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1           A.       Yes. I don't know when the order was  
2 entered granting my motion to withdraw, but, yes,  
3 that's what I said and that's my memory.

4           Q.       I was a little unclear on what prompted  
5 that decision, but am I right in understanding the  
6 client made comments that made you understand that he  
7 had lost confidence in you?

8           A.       No. That's not it.

9           Q.       What was it that the client said that led  
10 you to think you needed to withdraw if you are able to  
11 answer that question?

12           MR. PRICE: Don't answer that question  
13 because that's attorney-client privileged information.  
14 Mr. Keefer may get in this lawsuit and we can work it  
15 out at that time.

16 BY MR. SPRAGENS:

17           Q.       I assume you will take your attorney's  
18 advice.

19           A.       I will. When it gets worked out, I'll  
20 answer it later. I can answer, but I will follow his  
21 advice, yes.

22           Q.       I think you testified that you called or  
23 otherwise communicated with somebody at the Tennessee  
24 Board of Professional Responsibility before deciding to  
25 withdraw?

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1 A. Yes.

2 Q. Who did you speak with?

3 A. Russ Willis.

4 Q. Are you able to tell me what Mr. Willis  
5 advised you under the circumstance?

6 A. I think I am. He is not a client. I am  
7 looking at my attorney on Zoom. I don't know why I  
8 can't. I have counsel. I don't know of any privilege,  
9 but Mr. Price is smarter than me on this.

10 MR. PRICE: He can ask that, but you  
11 can't answer the question as to what Mr. Keefer told  
12 you.

13 THE WITNESS: Understood. I'll answer  
14 and try to make sure in my answer about what Mr. Willis  
15 said I am not betraying something that falls under  
16 other privilege. I don't want to -- does that make  
17 sense?

18 BY MR. SPRAGENS:

19 Q. Sure. That's perfectly fine.

20 A. Mr. Willis said those relationships both  
21 with the client and with my co-counsel based on things  
22 they said to me appeared -- I don't know if he said  
23 broken or irreparable, that I could not ethically  
24 continue to represent the client, that I needed to  
25 immediately tell the client and co-counsel that I was

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1 required to withdraw and then later file a motion about  
2 that, but that my communications with them not be  
3 broader than them, that just being in our group. Again  
4 to answer this without betraying comments that may fall  
5 under privilege, that's how I answer that now without  
6 invading privilege that has come up.

7 Q. Did Mr. Willis give you that advice or  
8 anything memorializing that in writing?

9 A. No. He told me in that conversation on  
10 the phone that day.

11 Q. Ultimately you withdrew from the  
12 Shoemaker case, as opposed to the client terminating  
13 you from that case?

14 A. Correct. Once the board told me I had to  
15 withdraw, I took those steps to withdraw I felt I was  
16 required to do. I will say to add to the other there  
17 is a letter I sent to Mr. Keefer and Ms. Hagh that  
18 touches on some of these comments. That's out there  
19 until we get a ruling that lets me repeat them somehow  
20 orally.

21 Q. At the time you said that to Ms. Hagh you  
22 knew that she was working on behalf of Hagh Law at that  
23 time?

24 A. I don't know one way or another. I don't  
25 know. Again, I don't know one way or another.

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1 Q. You thought there might be some chance  
2 she was still working on behalf of Cummings Manookian  
3 at that time?

4 A. I don't know one way or another. I sent  
5 it to wherever I had contact information from her. As  
6 hopefully you understand, I wasn't concerned about what  
7 firm she was working for at the time when I sent that.

8 Q. Is there any reason at the time that you  
9 left Cummings Manookian and started representing Mr.  
10 Keefer on behalf of Cummings Injury Law you did not  
11 enter into a new representation agreement between your  
12 firm and Mr. Keefer?

13 A. Sure. There are a few reasons, but they  
14 migrate over some time if that's okay to answer that  
15 way. Initially I thought the existing agreement  
16 covered it. At one point -- I don't know the date  
17 offhand -- it was around the time I withdrew the client  
18 told me he thought the initial agreement continued to  
19 cover it. Somewhere in 2019 around the time of the  
20 mediation I had an e-mail exchange with Brian  
21 Manookian. He was not suspended at the time of this  
22 e-mail exchange. He and I confirmed in an e-mail an  
23 understanding if the case settled it says something  
24 like within 30 to 60 days or 30 to 45 days of the  
25 summer '19 e-mail, the fees would be split 50/50 with

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1 50 percent going to Brian Cummings/Cummings Law. I had  
2 that.

3 In January 2020 I asked the client when I  
4 realized that Ms. Hagh and Mr. Manookian had entered  
5 into a new agreement with the client asked them to  
6 confirm by e-mail that the terms of the earlier  
7 agreement -- that he still wanted me to work on the  
8 case, that he still authorized it, that we weren't  
9 deleting anything from the earlier agreements, but if  
10 there was any question, just confirming he wanted me to  
11 continue working on it and still did. He affirmed that  
12 after first texting Mr. Manookian if that was okay to  
13 do so. So those things are why I had the understanding  
14 I did.

15 One more thing. As Mr. Young asked me  
16 about what feels like multiple hours ago and maybe it  
17 was, everything I had worked on after I left Cummings  
18 Manookian that later settled we used a paragraph in the  
19 operating agreement through the -- I think somebody  
20 said the term was receiver -- whatever the term it is  
21 to figure out how to divide it. When I used that, we  
22 kept using that is how I will put it. There was a  
23 history there whether it's directly analogous or partly  
24 analogous to add that reason in.

25 Q. How were you deciding in this deposition

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1 which attorney-client communications to testify about  
2 and not to testify about? It seems you just testified  
3 about your communications with Mr. Keefer, some  
4 communication between him and Mr. Manookian, but you  
5 are not willing to testify about other communications  
6 with Mr. Keefer.

7 A. Under Mr. Manookian issue it's that he  
8 wasn't the client, but I am leaving it up to my  
9 attorney when he directs me not to answer because of  
10 privilege.

11 Q. Are you aware what percentage of the  
12 Shoemaker fee the trustee in this case claims are due  
13 to Cummings Manookian?

14 A. No, I am not.

15 Q. If the trustee takes the position all  
16 fees from Shoemaker are Cummings Manookian property, do  
17 you agree with that position?

18 MR. YOUNG: Objection, foundation.

19 THE WITNESS: If someone claims that the  
20 time Brian Cummings spent on this case for years after  
21 he left Cummings Manookian falls under the Cummings  
22 Manookian umbrella, I would disagree with that. That's  
23 my answer.

24 BY MR. SPRAGENS:

25 Q. Likewise, would you agree the time Afsoon

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1 Hagh spent on the case after she left Cummings  
2 Manookian would be due to her or her firm?

3 A. I am not factually aware of the details.  
4 I don't know how to answer that about somebody else,  
5 other firms. I am not arguing against it or for it.

6 Q. You don't have a view one way or another  
7 whether Cummings Manookian continued to exist after you  
8 left and Mr. Manookian was suspended from the practice  
9 of law?

10 A. The beginning of that question I need to  
11 hear again.

12 Q. You don't have a view one way or the  
13 other whether Cummings Manookian continued to exist  
14 after you withdrew and Mr. Manookian was suspended from  
15 the practice of law?

16 A. No. I don't know one way or another when  
17 Cummings Manookian ceased to exist. I don't know. I  
18 don't know that.

19 Q. Do you agree that when Mr. Manookian was  
20 suspended from the practice of law that would  
21 constitute a withdrawal from Cummings Manookian?

22 MR. YOUNG: Objection, calls for a legal  
23 conclusion.

24 THE WITNESS: I don't know. I am sorry  
25 if that's frustrating. I don't know. I just don't

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1 know. Again, I am not arguing for or against it.

2 MR. SPRAGENS: Thank you very much for  
3 your time.

4 MR. YOUNG: Mr. Gabbert, do you have  
5 anything?

6 MR. GABBERT: No.

7 MR. YOUNG: I have a few very quick  
8 follow-up.

9 \* \* \* \* \*

10 FURTHER EXAMINATION

11 BY MR. YOUNG:

12 Q. You testified a moment ago when  
13 responding to Mr. Spragens that Afsoon Hagh had access  
14 to Cummings Manookian confidential files. Did Mark  
15 Hammervold have access to Cummings Manookian  
16 confidential files?

17 A. My understanding is, yes, to the extent  
18 it was a file he was working on, that there was some  
19 kind of -- this is a Doug Rice issue if that name rings  
20 a bell from earlier, that he or somebody else would set  
21 up selective access, if even that.

22 Q. So Mark Hammervold may have had limited  
23 access to Cummings Manookian files, correct?

24 A. Correct, at most.

25 Q. Afsoon Hagh -- was her access limited or

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1       unlimited?

2           A.     I think it's unlimited. I think it was  
3       unlimited.

4           Q.     Did any other attorney, other than you,  
5       Mr. Manookian, and Ms. Hagh, have unlimited access to  
6       Cummins Manookian confidential files?

7           A.     No.

8           Q.     You mentioned in responding to Mr.  
9       Spragens' question that Afsoon Hagh got mail at an  
10      address 47 Music Square West. Where did that address  
11      come from?

12           MR. SPRAGENS: Object to the form.

13           THE WITNESS: I don't know where it  
14      started. I remember being asked my thoughts on, you  
15      know, where it came from, because everybody we've been  
16      talking about knows that's not an actual physical  
17      presence anywhere. If that doesn't answer the  
18      question, ask another one. It doesn't exist, so I  
19      don't know how else to answer that. Anybody who was  
20      ever asked about 45 Music Square West would know that  
21      doesn't exist.

22      BY MR. YOUNG:

23           Q.     Do you know whether Ms. Hagh represented  
24      that was her address, or was this just a mistake by the  
25      post office?

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1           A.       I wasn't trying to say it was a mistake  
2 by the post office if it sounded like that. It doesn't  
3 exist. If somebody used that address -- I know I am  
4 the one answering questions, but they would have to  
5 answer why they would use an address that doesn't  
6 exist.

7           Q.       Do you know if Ms. Hagh used that  
8 address?

9           A.       I have seen it on things, yes, but I  
10 don't know how often she used it.

11          Q.       Do you know whether Cummings Manookian  
12 ever terminated its relationship with Brett Keefer one  
13 way or the other?

14          A.       No, and I am -- sounds like something you  
15 asked earlier. I don't know. I am not trying to say  
16 they did or didn't. I just don't know.

17                    MR. YOUNG: Those are all my questions.  
18 Thank you.

19                    MR. SPRAGENS: Nothing further.

20                    MR. PRICE: I have something. Mr.  
21 Spragens asked earlier about the lawsuit. Let me say  
22 there was a lawsuit filed in the circuit court for  
23 Davidson County to enforce the attorney's lien Mr.  
24 Cummings filed.

25                    The defendants in that were Mr. Keefer as

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1 the trustee in that. Ms. Afsoon Hagh was also added  
2 because she has a claim in that. We joined the trustee  
3 because the trustee has a claim in that. The trustee  
4 moved that case to bankruptcy court, federal court, now  
5 in federal court, and, Craig, let me tell you I have  
6 done everything to try to serve Ms. Hagh. The  
7 certified mail I sent is not picked up. My agent for  
8 service of process goes out to the house that is listed  
9 by board of professional responsibility as her office  
10 and no one comes to the door.

11                   We need to get this thing served so we  
12 can move on. I don't feel I ought to chase her like a  
13 kid who stole a watermelon out of a patch.

14                   Could you ask her to contact me where I  
15 can serve her like a professional does. I don't want  
16 to have to chase her down at the grocery store or at  
17 her doctor's office, so at least we can move this case  
18 on.

19                   MR. GABBERT: I am not representing her  
20 in that matter, so I cannot.

21                   MR. PRICE: Could you pass that word to  
22 her? I understand. Is she present today? Perhaps she  
23 heard.

24                   MR. GABBERT: Not to my knowledge.

25                   MR. SPRAGENS: I don't know that she is

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1 here, but sounds like a conversation for another time.  
2 Thank you all.

3 (DEPOSITION CONCLUDED.)  
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## 1 REPORTER' S CERTIFICATE

2 STATE OF TENNESSEE )

3 COUNTY OF DAVIDSON )

4 I, Cristi G. Watson, Licensed Court Reporter in and  
5 for the State of Tennessee, do hereby certify that the  
6 foregoing proceedings were stenographically reported by me on  
7 the 9th day of June, 2022, and that the foregoing transcript  
8 constitutes a true and accurate record to the best of my  
9 ability.10 I further certify that I am not related to nor an  
11 employee of counsel or any of the parties to the action, nor  
12 am I in any way financially interested in the outcome of this  
13 case.14 I further certify that I am duly licensed by the  
15 Tennessee Board of Court Reporting as a Licensed Court  
16 Reporter as evidenced by the LCR number following my name  
17 below.18 IN WITNESS WHEREOF, I have hereunto set my official  
19 hand on this 22nd day of June, 2022.

22 CRI STI G. WATSON

23 Tennessee License No. 187

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